

ARMED FORCES NATURALIZATION ACT OF 2003

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MAY 19, 2003.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. SENSENBRENNER, from the Committee on the Judiciary,  
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1954]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1954) to revise the provisions of the Immigration and Nationality Act relating to naturalization through service in the Armed Forces, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:  
Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Armed Forces Naturalization Act of 2003”.

**SEC. 2. NATURALIZATION THROUGH SERVICE IN ARMED FORCES.**

(a) **REDUCTION OF PERIOD FOR REQUIRED SERVICE.**—Section 328(a) of the Immigration and Nationality Act (8 U.S.C. 1439(a)) is amended by striking “three years,” and inserting “one year,”.

(b) **PROHIBITION ON IMPOSITION OF FEES RELATING TO NATURALIZATION.**—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended—

(1) in section 328(b)—

(A) in paragraph (3)—

(i) by striking “honorable. The” and inserting “honorable (the); and

(ii) by striking “discharge.” and inserting “discharge); and”; and

(B) by adding at the end the following:

“(4) notwithstanding any other provision of law, no fee shall be charged or collected from the person for filing the application, or for the issuance of a certificate of naturalization upon being granted citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.”; and

(2) in section 329(b)—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(4) notwithstanding any other provision of law, no fee shall be charged or collected from the person for filing the application, or for the issuance of a certificate of naturalization upon being granted citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.”.

(c) **REVOCAION OF CITIZENSHIP FOR SEPARATION FROM MILITARY SERVICE UNDER OTHER THAN HONORABLE CONDITIONS.**—Section 328 of the Immigration and Nationality Act (8 U.S.C. 1439) is amended by adding at the end the following:

“(f) Citizenship granted pursuant to this section may be revoked in accordance with section 340 of this title if at any time subsequent to naturalization the person is separated from the military, air, or naval forces under other than honorable conditions, and such ground for revocation shall be in addition to any other provided by law. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation.”.

(d) **NATURALIZATION PROCEEDINGS OVERSEAS FOR MEMBERS OF ARMED FORCES.**—Notwithstanding any other provision of law, the Secretary of Homeland Security, the Secretary of State, and the Secretary of Defense shall ensure that any applications, interviews, filings, oaths, ceremonies, or other proceedings under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) relating to naturalization of members of the Armed Forces are available, to the maximum extent practicable, through United States embassies, consulates, and United States military installations overseas.

(e) **TECHNICAL AMENDMENT.**—Section 328(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1439(b)(3)) is amended by striking “Attorney General,” and inserting “Secretary of Homeland Security,”.

**SEC. 3. POSTHUMOUS CITIZENSHIP THROUGH DEATH WHILE ON ACTIVE-DUTY SERVICE IN ARMED FORCES.**

(a) **IN GENERAL.**—Section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) is amended by striking subsection (e) and inserting the following:

“(e) **PROHIBITION ON IMPOSITION OF FEES.**—Notwithstanding any other provision of law, no fee shall be charged or collected from a person for filing a request for the granting of posthumous citizenship under subsection (c), or for the issuance of a document under subsection (d).

“(f) **BENEFITS FOR SURVIVORS.**—

“(1) **SPOUSES.**—Notwithstanding the second sentence of section 201(b)(2)(A)(i), a person who is the surviving spouse of a person granted post-

humous citizenship under this section, and who was living in marital union with the citizen spouse at the time of death, shall be considered, for purposes of section 201(b), to remain an immediate relative after the date of the citizen's death, but only until the date on which the surviving spouse remarries.

“(2) CHILDREN.—Notwithstanding the second sentence of section 201(b)(2)(A)(i), a person who is the surviving child of a person granted posthumous citizenship under this section, and who is an unmarried person under 21 years of age on the date on which the petition under paragraph (4) is filed, shall be considered, for purposes of section 201(b), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status after such filing date).

“(3) PARENTS.—Notwithstanding the first sentence of section 201(b)(2)(A)(i), a person who is the surviving parent of a person granted posthumous citizenship under this section, and who is lawfully present in the United States on the date of the citizen's death, shall be considered, for purposes of section 201(b), to remain an immediate relative after such date, and the requirement that the citizen be at least 21 years of age shall not apply.

“(4) SELF-PETITIONS.—

“(A) IN GENERAL.—In the case of a surviving spouse, child, or parent who remains an immediate relative after the date of a citizen's death pursuant to paragraph (1), (2), or (3), any petition under section 204 otherwise required to be filed by the citizen to classify the spouse, child, or parent under section 201(b)(2)(A)(i) may be filed instead by the spouse, child, or parent.

“(B) MINOR CHILDREN.—In the case of a child under 18 years of age on the filing date, the petition described in subparagraph (A) shall be filed on behalf of the child by a parent or legal guardian of the child.

“(5) DEADLINE.—Paragraphs (1) through (4) shall apply only if the petition under paragraph (4) is filed not later than 2 years after the date on which the request under subsection (c) is granted.

“(6) CONVERSION OF PETITIONS.—In the case of a petition under section 204 initially filed for an alien's classification as a family-sponsored immigrant under section 203(a)(2)(A), based on the alien's spouse or parent being lawfully admitted for permanent residence, upon the grant of posthumous citizenship under this section to the petitioner, the Secretary of Homeland Security—

“(A) shall convert such petition to a petition filed under paragraph (4) to classify the alien as an immediate relative under subsection (b)(2)(A)(i);

“(B) shall ensure that the priority date assigned upon receipt of the original petition is maintained; and

“(C) otherwise shall treat the date on which the request under subsection (c) is granted as the petition filing date for purposes of this subsection.

“(7) WAIVER OF PUBLIC CHARGE GROUND FOR INADMISSIBILITY.—In determining the admissibility of any alien accorded an immigration benefit under this subsection, the grounds for inadmissibility specified in section 212(a)(4) shall not apply.

“(8) NO BENEFITS FOR OTHER RELATIVES.—Nothing in this section shall be construed as providing for any benefit under this Act for any relative of a person granted posthumous citizenship under this section who is not treated as a spouse, child, or parent under this subsection.”

(b) NATURALIZATION FOR SURVIVING SPOUSES.—Section 319(d) of the Immigration and Nationality Act (8 U.S.C. 1430(d)) is amended by adding at the end the following: “For purposes of this subsection, the terms ‘United States citizen’ and ‘citizen spouse’ include a person granted posthumous citizenship under section 329A.”

(c) TECHNICAL AMENDMENTS.—Section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) is amended by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security”.

#### SEC. 4. IMMIGRATION BENEFITS FOR SURVIVING ALIEN SPOUSES, CHILDREN, AND PARENTS OF CITIZENS WHO DIE WHILE ON ACTIVE DUTY.

(a) TREATMENT AS IMMEDIATE RELATIVES.—Section 201(f) of the Immigration and Nationality Act (8 U.S.C. 1151(f)) is amended by adding at the end the following:

“(4) SURVIVING ALIEN SPOUSES, CHILDREN, AND PARENTS OF CITIZENS WHO DIE WHILE ON ACTIVE-DUTY SERVICE IN ARMED FORCES.—

“(A) BENEFITS FOR SURVIVORS.—

“(i) IN GENERAL.—The benefits under this paragraph shall apply only to a surviving spouse, child, or parent of a person who, while a citizen of the United States, died during a period of honorable service

in the Armed Forces of the United States as a result of injury or disease incurred in or aggravated by such service.

“(ii) DETERMINATIONS.—The executive department under which the citizen so served shall determine whether the citizen satisfied the requirements of clause (i).

“(B) SPOUSES.—Notwithstanding the second sentence of subsection (b)(2)(A)(i), a person who is a surviving spouse described in subparagraph (A), and who was living in marital union with the citizen described in such subparagraph at the time of death, shall be considered, for purposes of subsection (b), to remain an immediate relative after the date of the citizen’s death, but only until the date on which the surviving spouse remarries.

“(C) CHILDREN.—Notwithstanding the second sentence of subsection (b)(2)(A)(i), a person who is a surviving child described in subparagraph (A), and who is an unmarried person under 21 years of age on the date on which a petition described in subparagraph (E) to classify the alien as an immediate relative is filed, shall be considered, for purposes of subsection (b), to remain an immediate relative after the date of the citizen’s death (regardless of changes in age or marital status after such filing date).

“(D) PARENTS.—Notwithstanding the first sentence of subsection (b)(2)(A)(i), a person who is a surviving parent described in subparagraph (A), and who is lawfully present in the United States on the date of the citizen’s death, shall be considered, for purposes of subsection (b), to remain an immediate relative after such date, and the requirement that the citizen be at least 21 years of age shall not apply.

“(E) TREATMENT OF PETITIONS.—

“(i) CONTINUATION OF PETITIONS.—A petition properly filed on behalf of a spouse, child, or parent under section 204(a)(1)(A)(i) by a citizen described in subparagraph (A) prior to the citizen’s death shall be valid to classify the spouse, child, or parent as an immediate relative pursuant to this paragraph. No new petition shall be required to be filed, and any priority date assigned prior to the death shall be maintained.

“(ii) SELF-PETITIONS.—In the case of a surviving child or parent who remains an immediate relative after the date of a citizen’s death pursuant to subparagraph (C) or (D), any petition under section 204 otherwise required to be filed by the citizen to classify the child or parent under subsection (b)(2)(A)(i) may be filed instead by the child or parent. In the case of a surviving spouse who remains an immediate relative after the date of a citizen’s death pursuant to subparagraph (B), the spouse may petition under section 204(a)(1)(A)(ii) and shall be treated as an alien spouse described in the second sentence of subsection (b)(2)(A)(i) for such purpose.

“(iii) MINOR CHILDREN.—In the case of a child under 18 years of age on the filing date, the petition described in clause (ii) shall be filed on behalf of the child by a parent or legal guardian of the child.

“(iv) DEADLINE.—In the case of petition under clause (ii), subparagraphs (B), (C), and (D) shall apply only if such petition is filed not later than 2 years after the date of the citizen’s death.

“(F) WAIVER OF PUBLIC CHARGE GROUND FOR INADMISSIBILITY.—In determining the admissibility of any alien accorded an immigration benefit under this paragraph, the grounds for inadmissibility specified in section 212(a)(4) shall not apply.”.

(b) TECHNICAL AMENDMENT.—Section 201(f)(1) of the Immigration and Nationality Act (8 U.S.C. 201(f)(1)) is amended by striking “Attorney General” and inserting “Secretary of Homeland Security”.

#### SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect as if enacted on September 11, 2001.

(b) FEES.—The amendments made by this Act to sections 328 through 329A of the Immigration and Nationality Act (8 U.S.C. 1439–1440–1), insofar as such amendments prohibit the imposition of a fee—

(1) shall take effect on the date of the enactment of this Act; and

(2) shall not be construed to require the refund or return of any fee collected before such date.

## PURPOSE AND SUMMARY

H.R. 1954 would reduce the period of military service required during peace time from 3 years to 1 year before a non-citizen military member could apply for naturalization. It also makes the application process easier for service members by waiving fees for the application for naturalization, the certificate of naturalization, and the application for posthumous citizenship and requiring the Secretaries of Homeland Security, State, and Defense to make naturalization applications, interviews, filings, oaths, and ceremonies available, to the maximum extent practicable, through United States embassies, consulates, and military installations abroad. H.R. 1954 would also permit spouses, children, and certain parents of a military member granted posthumous citizenship, and a U.S. citizen military member who died during military service, to apply for immigration benefits as if the military member had not died, while waiving the public charge ground of inadmissibility.

## BACKGROUND AND NEED FOR THE LEGISLATION

After learning that 10 members of our Armed Forces who died in combat during "Operation Iraqi Freedom" were not United States citizens, several bills were introduced to honor those military members who have made the ultimate sacrifice for this country by either easing the naturalization requirements of legal permanent residents in the armed services or providing immigration benefits to surviving family members of those killed in service to America, or both.

Some bills reduce the peace time military service requirement from 3 years to 2 years; another bill lowers it to zero years. H.R. 1954 would reduce the military service requirement to apply for naturalization during peace time from 3 years to 1 year. One year is an obvious compromise. It lowers the required years of service while maintaining the requirement that a military member must still establish his worthiness for expedited naturalization through a period of honorable military service during peace time.

Many of the introduced bills, including H.R. 1954, also waive the fees for the naturalization petition or naturalization certificate, along with related State fees, and the fee for the posthumous citizenship application. This would ease the financial burden for military members who perform outstanding service for our country and receive little money in return.

Currently, military members must be physically in the United States to file a naturalization application, to be interviewed for the application, and to take the oath of citizenship. This requirement causes some military members to have to leave their post abroad and return to the United States at their own expense. This is both expensive and causes unnecessary interruption in their military service. H.R. 1954 would require the Departments of Homeland Security, State, and Defense to ensure that naturalization applications, interviews, filings, oaths, and ceremonies are available, to the maximum extent practicable, at U.S. embassies, consulates, and military installations.

Under current law, family members of posthumous citizens cannot apply for immigration benefits through the posthumous citizen. H.R. 1954 would permit surviving immediate relative family mem-

bers (spouse, children, and certain parents) of both military members who were U.S. citizens before death, and immigrant military members who were granted citizenship posthumously, to apply for immigration benefits as if the military family member had not died.

#### HEARINGS

The Committee's Subcommittee on Immigration, Border Security, and Claims held 1 day of hearings on related bills H.R. 1714, H.R. 1275, H.R. 1799, H.R. 1850, H.R. 1685, and H.R. 1814 on May 6, 2003. Testimony was received from six Member witnesses, the authors of the above bills: Representative Doc Hastings, Representative Martin Frost, Representative Walter Jones, Representative Luis Gutierrez, Representative Darrell Issa, and Representative Hilda Solis.

#### COMMITTEE CONSIDERATION

On May 7, 2003, the Committee met in open session and ordered favorably reported the bill H.R. 1954 with amendment by voice vote, a quorum being present.

#### VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee notes the following votes occurred during the Committee's consideration of H.R. 1954:

Mr. King offered an amendment to permit revocation of citizenship granted for military service during peace time when a military member is separated from military service under other than honorable conditions. The amendment passed by voice vote.

Ms. Jackson Lee offered an amendment to permit surviving spouses of posthumously-granted U.S. citizen military members to apply for naturalization immediately rather than wait for the 3 year-marriage requirement to be met. The amendment passed by voice vote.

Mr. King offered an amendment to preclude a deceased soldier's parents who are not authorized to be in the United States when the soldier dies from being able to apply for immigration benefits through the deceased soldier. The amendment passed by a recorded vote of 14–8.

#### ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Hyde .....			
Mr. Coble .....	X		
Mr. Smith .....	X		
Mr. Gallegly .....	X		
Mr. Goodlatte .....			
Mr. Chabot .....			
Mr. Jenkins .....	X		
Mr. Cannon .....		X	
Mr. Bachus .....	X		
Mr. Hostettler .....	X		
Mr. Green .....	X		
Mr. Keller .....	X		
Ms. Hart .....			
Mr. Flake .....			

## ROLLCALL NO. 1—Continued

	Ayes	Nays	Present
Mr. Pence .....			
Mr. Forbes .....	X		
Mr. King .....	X		
Mr. Carter .....	X		
Mr. Feeney .....	X		
Mrs. Blackburn .....	X		
Mr. Conyers .....			
Mr. Berman .....	X		
Mr. Boucher .....			
Mr. Nadler .....		X	
Mr. Scott .....			
Mr. Watt .....			
Ms. Lofgren .....		X	
Ms. Jackson Lee .....		X	
Ms. Waters .....			
Mr. Meehan .....		X	
Mr. Delahunt .....			
Mr. Wexler .....			
Ms. Baldwin .....		X	
Mr. Weiner .....			
Mr. Schiff .....			
Ms. Sánchez .....		X	
Mr. Sensenbrenner, Chairman .....		X	
Total .....	14	8	

Mr. Berman and Ms. Sánchez offered an amendment to waive grounds of inadmissibility, including that for unlawful presence, for family members of deceased military members. The amendment was rejected by voice vote.

Ms. Lofgren offered an amendment to permit members of the Selected Reserve of the Ready Reserve to apply for naturalization immediately during periods of named hostilities under section 329 of the Immigration and Nationality Act. The amendment failed by a recorded vote of 10–16.

## ROLLCALL NO. 2

	Ayes	Nays	Present
Mr. Hyde .....			
Mr. Coble .....		X	
Mr. Smith .....		X	
Mr. Gallegly .....		X	
Mr. Goodlatte .....			
Mr. Chabot .....		X	
Mr. Jenkins .....		X	
Mr. Cannon .....		X	
Mr. Bachus .....		X	
Mr. Hostettler .....		X	
Mr. Green .....			
Mr. Keller .....		X	
Ms. Hart .....			
Mr. Flake .....		X	
Mr. Pence .....			
Mr. Forbes .....		X	
Mr. King .....		X	
Mr. Carter .....		X	
Mr. Feeney .....		X	
Mrs. Blackburn .....		X	
Mr. Conyers .....			
Mr. Berman .....	X		

## ROLLCALL NO. 2—Continued

	Ayes	Nays	Present
Mr. Boucher .....			
Mr. Nadler .....	X		
Mr. Scott .....	X		
Mr. Watt .....	X		
Ms. Lofgren .....	X		
Ms. Jackson Lee .....	X		
Ms. Waters .....			
Mr. Meehan .....	X		
Mr. Delahunt .....			
Mr. Wexler .....			
Ms. Baldwin .....	X		
Mr. Weiner .....			
Mr. Schiff .....	X		
Ms. Sánchez .....	X		
Mr. Sensenbrenner, Chairman .....		X	
Total .....	10	16	

Mr. Sensenbrenner moved to report the bill, as amended, favorably to the full House. The motion was adopted by voice vote.

## COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## PERFORMANCE GOALS AND OBJECTIVES

H.R. 1954 does not authorize funding. Therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives is inapplicable.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 1954, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:



U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 15, 2003.*

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*  
*Committee on the Judiciary,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1954, the Armed Forces Naturalization Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure

cc: Honorable John Conyers, Jr.  
Ranking Member

*H.R. 1954—Armed Forces Naturalization Act of 2003.*

#### SUMMARY

Under current law, lawful permanent residents who have served honorably on active duty or in reserve status in the U.S. armed forces for 3 years (in aggregate) are eligible to apply for naturalization (citizenship). During periods of military hostilities, however, such individuals who have served in the armed forces on active duty are immediately eligible for naturalization. On July 3, 2002, the President officially designated the period beginning on September 11, 2001, as a period of military hostilities.

H.R. 1954 would reduce the aforementioned service requirement from 3 years to 1 year, and would waive application fees for individuals eligible for naturalization through military service, including posthumous citizenship for persons killed while on active duty. The bill also would direct the Administration to make naturalization services available to military personnel serving overseas, to the maximum extent practicable. In addition, for family members of persons who die while on active duty, H.R. 1954 would make it easier to gain certain immigration benefits. Because enacting the bill would result in a reduction in immigration fees, CBO estimates that it would increase direct spending by about \$1 million in fiscal year 2003 and by \$12 million in 2004.

H.R. 1954 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs of the mandate, if any, would not be significant and would be well below the threshold established in UMRA (\$59 million in 2003, adjusted for inflation). The bill contains no new private-sector mandates as defined in UMRA.

#### ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 1954 is shown in the following table. CBO assumes that the bill will be enacted by July 1. The costs of this legislation fall within budget function 750 (administration of justice).

By Fiscal Year, in Millions of Dollars

	2003	2004	2005	2006	2007	2008
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	1	12	0	0	0	0
Estimated Outlays	1	12	0	0	0	0

## BASIS OF ESTIMATE

The U.S. armed forces currently includes about 37,000 individuals on active duty and another 12,000 in reserve status who are not citizens. In addition, CBO expects about 9,000 new legal permanent residents to enter the armed forces on active duty by the end of fiscal year 2004, based on the number of such entries in recent years. However, approximately 7,000 persons on active duty have already applied for naturalization since military hostilities were declared in July 2002 and could not benefit from H.R. 1954 (this represents less than 20 percent of the current eligible population of active-duty personnel).

By waiving application fees and improving the naturalization process overseas, CBO expects that enacting H.R. 1954 would significantly increase the percentage of eligible individuals who apply for citizenship. We anticipate that the majority of eligible individuals would choose to naturalize under the bill's provisions over the next year or two, thus gaining an important benefit while avoiding the \$310 in fees currently collected by the Bureau of Citizenship and Immigration Services (BCIS). Based on the current number of citizenship applications by eligible military personnel (as noted in the preceding paragraph), we estimate two-thirds (over 30,000) of the eligible persons would apply for naturalization. By comparison, nationwide about 55 percent of eligible aliens apply for citizenship over the duration of their stay in the United States. Thus, enacting H.R. 1954 would result in a loss of fees (direct spending) of about \$10 million over the 2003–2004 period, mostly in 2004.

In addition, the BCIS (formerly the Immigration and Naturalization Service) expects to employ 25 persons at overseas locations to provide naturalization services there, as directed by H.R. 1954. These activities are funded by fees collected by the BCIS and spent without appropriation action. Thus, CBO estimates that this provision would increase direct spending by about \$3 million annually, beginning in fiscal year 2004.

The BCIS periodically reviews its fees for providing adjudication and naturalization services and sets fees sufficient to ensure the recovery of the full costs of providing all such services, including the costs of services provided without charge to certain applicants. The two most recent fee adjustments occurred in early 1999 and in early 2002, and total fee collections and spending on immigration administration are expected to exceed \$1 billion in each of the next few years. During fiscal year 2005, CBO assumes that the BCIS will raise fees as necessary to offset the additional costs resulting from enactment of H.R. 1954. In that case, the bill would have no significant net effect on BCIS spending after 2004.

CBO estimates the bill's provisions relating to fees for posthumous citizenship and immigration benefits for family members of those killed in wartime would have no significant effect because of the relatively small number of persons involved.

## ESTIMATED IMPACT ON STATE, LOCAL AND TRIBAL GOVERNMENT

H.R. 1954 would prohibit, in certain cases, State courts from collecting fees for processing naturalization applications or issuing certificates of naturalization for individuals who have served in the armed forces. To the extent that any State courts charge such fees, such a preemption of State authority is an intergovernmental mandate as defined in UMRA. However, CBO estimates that costs from the mandate, if any, would be insignificant and well below the threshold established in UMRA (\$59 million in 2003, adjusted for inflation).

## ESTIMATED IMPACT ON THE PRIVATE SECTOR

The bill contains no new private-sector mandates as defined by UMRA.

## ESTIMATE PREPARED BY:

Federal Costs: Mark Grabowicz (226–2860)  
 Impact on State, Local, and Tribal Governments: Victoria Heid Hall (225–3220)  
 Impact on the Private Sector: Paige Piper/Bach (226–2940)

## ESTIMATE APPROVED BY:

Peter H. Fontaine  
 Deputy Assistant Director for Budget Analysis

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article 1, section 8, clause 4 of the Constitution.

## SECTION-BY-SECTION ANALYSIS AND DISCUSSION

*Sec. 1. Short Title.* This Act may be cited as the “Armed Forces Naturalization Act of 2003.”

*Sec. 2. Naturalization Through Service in Armed Forces.* Section 2(a) amends section 328(a) of the Immigration and Nationality Act (INA) to reduce the peace time military service requirement from 3 years to 1 year before a lawful permanent resident military member may apply for naturalization.

Section 2(b) prohibits fees from being charged to military members applying for naturalization or a certificate of naturalization, including full or partial State charges for State documents that support an application for naturalization, such as criminal disposition documents. The Committee recommends that the Department of Homeland Security raise fee amounts for other applications to cover the costs of these military naturalization applications.

Section 2(c) permits the revocation of citizenship for separation from military service under other than honorable conditions. Because a military member may apply for naturalization immediately during a named period of hostilities, section 329 of the INA already states that such a military member may have their citizenship revoked if, at any time subsequent to naturalization, the person is separated from the military under other than honorable conditions. Because section 2(b) of H.R. 1954 would lower the peace time mili-

tary service requirement from 3 years to 1 year before a military member can apply for naturalization, section 2(c) of H.R. 1954 would amend section 328 of the INA to also state that such a military member may have their citizenship revoked if, at any time subsequent to naturalization, the person is separated from the military under other than honorable conditions.

Section 2(d) requires the Departments of Homeland Security (DHS), State and Defense (DOD) to provide naturalization applications, interviews, filings, oaths, ceremonies, or other INA title III proceedings for military members, to the greatest extent practicable, through United States embassies, consulates, and U.S. military installations overseas. Currently, military members must be physically in the U.S. to apply for, interview, and take the oath of citizenship. This requires some military members to have to take leave from their military service and travel to the U.S. at their own expense to apply for and take the oath of citizenship. This is both unnecessarily expensive and impractical for our military members. Both the Bureau of Citizenship and Immigration Services within the DHS and the DOD have represented to this Committee that they have a Memorandum of Understanding (MOU) between the two Departments that permits a flexible, smooth processing of military naturalization applications. This Committee would encourage the two Departments to revise their MOU to incorporate the changes made by H.R. 1954, including military naturalization processing overseas to the greatest extent practicable and perhaps permitting military leaders to perform the oath of citizenship for military members under the Secretary of Homeland Security's authority to delegate oath authority. The Committee realizes it will be impracticable to establish military naturalization adjudication at some remote, minimally staffed consulates and military installations. Therefore, the Committee does not expect military naturalization adjudication to occur at all such places. Rather, the Committee encourages the two Departments to continue to be flexible in establishing an MOU that allows for resourceful military naturalization adjudication.

*Sec. 3. Posthumous Citizenship Through Death While on Active-Duty Service in Armed Forces.* Section 3(a) prohibits the charging of a fee from a person seeking posthumous citizenship for a military member killed performing military service. The Committee recommends that the Department of Homeland Security raise fee amounts for other applications to cover the cost of posthumous citizenship applications. Section 3(a) also permits immediate relatives (spouses, children, and certain parents) to apply for immigration benefits as if the military member granted posthumous citizenship had not died. However, the fees are not waived for the immediate relatives' applications for immigration benefits under this Act. With regard to spouses of posthumous citizens, this section permits the spouse who was living in marital union with the posthumous citizen spouse to remain an immediate relative after the date of the posthumous citizen's death, regardless of the length of the marriage, but only until the spouse re-marries.

Children of posthumous citizens who are unmarried and under 21 years old may remain immediate relatives after the date of the posthumous citizen's death, regardless of whether the child turns

21 or marries after filing the immigration petition under this section.

Section 3(a) also permits parents of posthumous citizens who are authorized to be present temporarily in the United States on the date of the posthumous citizen's death to remain immediate relatives after the death of the military member and regardless of whether the military member was under 21 years old.

If a military member had not filed a visa petition for the spouse, child(ren), or parents before death in the military, the eligible spouse, child(ren), and parents may self-petition for a family visa as if the military member (would-be petitioner) had not died. If a child is under 18 years of age, the surviving parent or legal guardian shall file the self-petition on behalf of the child.

Any petition filed under this section must be filed within 2 years from the date on which the posthumous citizenship is granted.

If the lawful permanent resident military member had filed a visa petition for the spouse or child(ren) prior to death in the military and subsequent posthumous citizenship, the petition for the spouse or child(ren) as a family-sponsored immigrant shall convert to a petition for an immediate relative upon the grant of posthumous citizenship. Also, the priority date assigned under the original petition shall be maintained after conversion to a petition for an immediate relative. Otherwise, the date on which posthumous citizenship is requested shall be the petition filing date for a self-petition under this subsection.

Section 3(a) also waives the public charge ground of inadmissibility for immediate relative family members eligible to apply for immigration benefits under this section. Section 3(a) does not permit any other family member to apply for immigration benefits under this section.

Section 3(b) of H.R. 1954 permits lawful permanent resident spouses of posthumous citizens to immediately apply for naturalization rather than wait 3 years, as if the military member had not died. Section 319(d) of the INA currently permits lawful permanent resident spouses of U.S. citizens who die during military service to immediately apply for naturalization. Section 3(b) would give parity to lawful permanent resident spouses of military members granted U.S. citizenship posthumously.

*Sec. 4. Immigration Benefits for Surviving Alien Spouses, Children, and Parents of Citizens who Die While on Active Duty.* Section 4(a) permits spouses, children, and certain parents of U.S. citizens who die during honorable military service to apply for immigration benefits as if the citizen had not died. The fees are not waived for the immediate relatives' applications for immigration benefits under this Act. The military branch under which the U.S. citizen served shall determine whether the citizen satisfied the requirements of death during a period of honorable service in the Armed Forces of the U.S. as a result of injury or disease incurred in or aggravated by such service.

With regard to spouses of U.S. citizens, this section permits the spouse who was living in marital union with the citizen spouse to remain an immediate relative after the date of the citizen's death, regardless of the length of the marriage, but only until the spouse re-marries.

Children of citizens who are unmarried and under 21 years old may remain immediate relatives after the date of the citizen's death, regardless of whether the child turns 21 or marries after filing the immigration petition under this section.

Section 4(a) also permits parents of citizens who are authorized to be present temporarily in the United States on the date of the citizen's death to remain immediate relatives after the death of the military member and regardless of whether the U.S. citizen military member was under 21 years old at death.

If the U.S. citizen had filed a petition on behalf of a spouse, child(ren), or parent prior to the citizen's death, the petition shall continue to be valid as a petition for an immediate relative. No new petition need be filed and any priority date assigned prior to the citizen's death shall be maintained.

If the U.S. citizen military member had not filed a visa petition for the spouse, child(ren), or parents before death in the military, the eligible child(ren) and parents may self-petition for a family visa as if the military member (would-be petitioner) had not died. A surviving spouse of a killed U.S. citizen military member may self-petition as an immediate relative, regardless of how long the couple had been married. If a child is under 18 years of age, the surviving parent or legal guardian shall file the self-petition on behalf of the child.

Any petition filed under this section must be filed within 2 years from the date of the citizen's death. Section 4(a) also waives the public charge ground of inadmissibility for family members applying for immigration benefits under this section.

*Sec. 5. Effective Date.* Section 5 establishes the effective date for the fee waivers on the date of enactment of H.R. 1954 and should not be construed to require the refund or return of any fee collected before such date. Otherwise, the effective date of this Act is September 11, 2001.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

### IMMIGRATION AND NATIONALITY ACT

\* \* \* \* \*

#### TITLE II—IMMIGRATION

##### CHAPTER 1—SELECTION SYSTEM

##### WORLDWIDE LEVEL OF IMMIGRATION

SEC. 201. (a) \* \* \*

\* \* \* \* \*

(f) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE IMMEDIATE RELATIVES.—

(1) AGE ON PETITION FILING DATE.—Except as provided in paragraphs (2) and (3), for purposes of subsection (b)(2)(A)(i), a determination of whether an alien satisfies the age requirement in the matter preceding subparagraph (A) of section 101(b)(1) shall be made using the age of the alien on the date on which the petition is filed with the [Attorney General] *Secretary of Homeland Security* under section 204 to classify the alien as an immediate relative under subsection (b)(2)(A)(i).

\* \* \* \* \*

(4) *SURVIVING ALIEN SPOUSES, CHILDREN, AND PARENTS OF CITIZENS WHO DIE WHILE ON ACTIVE-DUTY SERVICE IN ARMED FORCES.*—

(A) *BENEFITS FOR SURVIVORS.*—

(i) *IN GENERAL.*—*The benefits under this paragraph shall apply only to a surviving spouse, child, or parent of a person who, while a citizen of the United States, died during a period of honorable service in the Armed Forces of the United States as a result of injury or disease incurred in or aggravated by such service.*

(ii) *DETERMINATIONS.*—*The executive department under which the citizen so served shall determine whether the citizen satisfied the requirements of clause (i).*

(B) *SPOUSES.*—*Notwithstanding the second sentence of subsection (b)(2)(A)(i), a person who is a surviving spouse described in subparagraph (A), and who was living in marital union with the citizen described in such subparagraph at the time of death, shall be considered, for purposes of subsection (b), to remain an immediate relative after the date of the citizen's death, but only until the date on which the surviving spouse remarries.*

(C) *CHILDREN.*—*Notwithstanding the second sentence of subsection (b)(2)(A)(i), a person who is a surviving child described in subparagraph (A), and who is an unmarried person under 21 years of age on the date on which a petition described in subparagraph (E) to classify the alien as an immediate relative is filed, shall be considered, for purposes of subsection (b), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status after such filing date).*

(D) *PARENTS.*—*Notwithstanding the first sentence of subsection (b)(2)(A)(i), a person who is a surviving parent described in subparagraph (A), and who is lawfully present in the United States on the date of the citizen's death, shall be considered, for purposes of subsection (b), to remain an immediate relative after such date, and the requirement that the citizen be at least 21 years of age shall not apply.*

(E) *TREATMENT OF PETITIONS.*—

(i) *CONTINUATION OF PETITIONS.*—*A petition properly filed on behalf of a spouse, child, or parent under section 204(a)(1)(A)(i) by a citizen described in subparagraph (A) prior to the citizen's death shall be valid to classify the spouse, child, or parent as an immediate relative pursuant to this paragraph. No new petition*

shall be required to be filed, and any priority date assigned prior to the death shall be maintained.

(ii) *SELF-PETITIONS.*—In the case of a surviving child or parent who remains an immediate relative after the date of a citizen’s death pursuant to subparagraph (C) or (D), any petition under section 204 otherwise required to be filed by the citizen to classify the child or parent under subsection (b)(2)(A)(i) may be filed instead by the child or parent. In the case of a surviving spouse who remains an immediate relative after the date of a citizen’s death pursuant to subparagraph (B), the spouse may petition under section 204(a)(1)(A)(ii) and shall be treated as an alien spouse described in the second sentence of subsection (b)(2)(A)(i) for such purpose.

(iii) *MINOR CHILDREN.*—In the case of a child under 18 years of age on the filing date, the petition described in clause (ii) shall be filed on behalf of the child by a parent or legal guardian of the child.

(iv) *DEADLINE.*—In the case of petition under clause (ii), subparagraphs (B), (C), and (D) shall apply only if such petition is filed not later than 2 years after the date of the citizen’s death.

(F) *WAIVER OF PUBLIC CHARGE GROUND FOR INADMISSIBILITY.*—In determining the admissibility of any alien accorded an immigration benefit under this paragraph, the grounds for inadmissibility specified in section 212(a)(4) shall not apply.

\* \* \* \* \*

### TITLE III—NATIONALITY AND NATURALIZATION

\* \* \* \* \*

#### CHAPTER 2—NATIONALITY THROUGH NATURALIZATION

\* \* \* \* \*

#### MARRIED PERSONS AND EMPLOYEES OF CERTAIN NONPROFIT ORGANIZATIONS

##### SEC. 319. (a) \* \* \*

\* \* \* \* \*

(d) Any person who is the surviving spouse of a United States citizen, whose citizen spouse dies during a period of honorable service in an active duty status in the Armed Forces of the United States and who was living in marital union with the citizen spouse at the time of his death, may be naturalized upon compliance with all the requirements of this title except that no prior residence or specified physical presence within the United States, or within a State or a district of the Service in the United States shall be required. *For purposes of this subsection, the terms “United States citizen” and “citizen spouse” include a person granted posthumous citizenship under section 329A.*

\* \* \* \* \*



NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES OF THE  
UNITED STATES

SEC. 328. (a) A person who has served honorably at any time in the Armed Forces of the United States for a period or periods aggregating ~~【three years,】~~ *one year*, and who, if separated from such service, was never separated except under honorable conditions, may be naturalized without having resided, continuously immediately preceding the date of filing such person's application, in the United States for at least five years, and in the State or district of the Service in the United States in which the application for naturalization is filed for at least three months, and without having been physically present in the United States for any specified period, if such application is filed while the applicant is still in the service or within six months after the termination of such service.

(b) A person filing a application under subsection (a) of this section shall comply in all other respects with the requirements of this title, except that—

(1) \* \* \*

\* \* \* \* \*

(3) the applicant shall furnish to the ~~【Attorney General,】~~ *Secretary of Homeland Security* prior to any final hearing upon his application, a certified statement from the proper executive department for each period of his service upon which he relies for the benefits of this section, clearly showing that such service was honorable and that no discharges from service, including periods of service not relied upon by him for the benefits of this section, were other than ~~【honorable. The】~~ *honorable* (the certificate or certificates herein provided for shall be conclusive evidence of such service and ~~【discharge.】~~ *discharge*); and

(4) *notwithstanding any other provision of law, no fee shall be charged or collected from the person for filing the application, or for the issuance of a certificate of naturalization upon being granted citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.*

\* \* \* \* \*

(f) *Citizenship granted pursuant to this section may be revoked in accordance with section 340 of this title if at any time subsequent to naturalization the person is separated from the military, air, or naval forces under other than honorable conditions, and such ground for revocation shall be in addition to any other provided by law. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation.*

NATURALIZATION THROUGH ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR I, WORLD WAR II, THE KOREAN HOSTILITIES, THE VIETNAM HOSTILITIES, OR IN OTHER PERIODS OF MILITARY HOSTILITIES

SEC. 329. (a) \* \* \*

(b) A person filing an application under subsection (a) of this section shall comply in all other respects with the requirements of this title, except that—

(1) \* \* \*

(2) no period of residence or specified period of physical presence within the United States or any State or district of the Service in the United States shall be required; [and]

(3) service in the military, air, or naval forces of the United States shall be proved by a duly authenticated certification from the executive department under which the applicant served or is serving, which shall state whether the applicant served honorably in an active-duty status during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date designated by the President by Executive order as the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and was separated from such service under honorable conditions[.]; and

(4) *notwithstanding any other provision of law, no fee shall be charged or collected from the person for filing the application, or for the issuance of a certificate of naturalization upon being granted citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.*

\* \* \* \* \*

POSTHUMOUS CITIZENSHIP THROUGH DEATH WHILE ON ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR I, WORLD WAR II, THE KOREAN HOSTILITIES, THE VIETNAM HOSTILITIES, OR IN OTHER PERIODS OF MILITARY HOSTILITIES

SEC. 329A. (a) PERMITTING GRANTING OF POSTHUMOUS CITIZENSHIP.—Notwithstanding any other provision of this title, the [Attorney General] *Secretary of Homeland Security* shall provide, in accordance with this section, for the granting of posthumous citizenship at the time of death to a person described in subsection (b) if the [Attorney General] *Secretary of Homeland Security* approves an application for that posthumous citizenship under subsection (c).

(b) NONCITIZENS ELIGIBLE FOR POSTHUMOUS CITIZENSHIP.—A person referred to in subsection (a) is a person who, while an alien or a noncitizen national of the United States—

(1) \* \* \*

\* \* \* \* \*

(c) REQUESTS FOR POSTHUMOUS CITIZENSHIP.—A request for the granting of posthumous citizenship to a person described in subsection (b) may be filed on behalf of the person only by the next-of-kin (as defined by the [Attorney General] *Secretary of Homeland Security*) or another representative (as defined by the [Attorney General] *Secretary of Homeland Security*). The [Attorney General] *Secretary of Homeland Security* shall approve such a request respecting a person if—

(1) \* \* \*

\* \* \* \* \*

(3) the [Attorney General] *Secretary of Homeland Security* finds that the person satisfied the requirement of subsection (b)(3).

(d) DOCUMENTATION OF POSTHUMOUS CITIZENSHIP.—If the [Attorney General] *Secretary of Homeland Security* approves such a request to grant a person posthumous citizenship, the [Attorney General] *Secretary of Homeland Security* shall send to the individual who filed the request a suitable document which states that the United States considers the person to have been a citizen of the United States at the time of the person's death.

[(e) NO BENEFITS TO SURVIVORS.—Nothing in this section or section 319(d) shall be construed as providing for any benefits under this Act for any spouse, son, daughter, or other relative of a person granted posthumous citizenship under this section.]

(e) PROHIBITION ON IMPOSITION OF FEES.—*Notwithstanding any other provision of law, no fee shall be charged or collected from a person for filing a request for the granting of posthumous citizenship under subsection (c), or for the issuance of a document under subsection (d).*

(f) BENEFITS FOR SURVIVORS.—

(1) SPOUSES.—*Notwithstanding the second sentence of section 201(b)(2)(A)(i), a person who is the surviving spouse of a person granted posthumous citizenship under this section, and who was living in marital union with the citizen spouse at the time of death, shall be considered, for purposes of section 201(b), to remain an immediate relative after the date of the citizen's death, but only until the date on which the surviving spouse remarries.*

(2) CHILDREN.—*Notwithstanding the second sentence of section 201(b)(2)(A)(i), a person who is the surviving child of a person granted posthumous citizenship under this section, and who is an unmarried person under 21 years of age on the date on which the petition under paragraph (4) is filed, shall be considered, for purposes of section 201(b), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status after such filing date).*

(3) PARENTS.—*Notwithstanding the first sentence of section 201(b)(2)(A)(i), a person who is the surviving parent of a person granted posthumous citizenship under this section, and who is lawfully present in the United States on the date of the citizen's death, shall be considered, for purposes of section 201(b), to re-*

main an immediate relative after such date, and the requirement that the citizen be at least 21 years of age shall not apply.

(4) *SELF-PETITIONS.*—

(A) *IN GENERAL.*—In the case of a surviving spouse, child, or parent who remains an immediate relative after the date of a citizen's death pursuant to paragraph (1), (2), or (3), any petition under section 204 otherwise required to be filed by the citizen to classify the spouse, child, or parent under section 201(b)(2)(A)(i) may be filed instead by the spouse, child, or parent.

(B) *MINOR CHILDREN.*—In the case of a child under 18 years of age on the filing date, the petition described in subparagraph (A) shall be filed on behalf of the child by a parent or legal guardian of the child.

(5) *DEADLINE.*—Paragraphs (1) through (4) shall apply only if the petition under paragraph (4) is filed not later than 2 years after the date on which the request under subsection (c) is granted.

(6) *CONVERSION OF PETITIONS.*—In the case of a petition under section 204 initially filed for an alien's classification as a family-sponsored immigrant under section 203(a)(2)(A), based on the alien's spouse or parent being lawfully admitted for permanent residence, upon the grant of posthumous citizenship under this section to the petitioner, the Secretary of Homeland Security—

(A) shall convert such petition to a petition filed under paragraph (4) to classify the alien as an immediate relative under subsection (b)(2)(A)(i);

(B) shall ensure that the priority date assigned upon receipt of the original petition is maintained; and

(C) otherwise shall treat the date on which the request under subsection (c) is granted as the petition filing date for purposes of this subsection.

(7) *WAIVER OF PUBLIC CHARGE GROUND FOR INADMISSIBILITY.*—In determining the admissibility of any alien accorded an immigration benefit under this subsection, the grounds for inadmissibility specified in section 212(a)(4) shall not apply.

(8) *NO BENEFITS FOR OTHER RELATIVES.*—Nothing in this section shall be construed as providing for any benefit under this Act for any relative of a person granted posthumous citizenship under this section who is not treated as a spouse, child, or parent under this subsection.

\* \* \* \* \*

MARKUP TRANSCRIPT  
**BUSINESS MEETING**  
**WEDNESDAY, MAY 7, 2003**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:00 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

[Intervening business.]

Chairman SENSENBRENNER. Now, the last item on the agenda, and pursuant to notice, I now call up the bill H.R. 1954, the "Armed Forces Naturalization Act of 2003" for purposes of markup and move its favorable recommendation to the full House.

Without objection, the bill will be considered as read and open for amendment at any point.

[The bill, H.R. 1954, follows:]

108TH CONGRESS  
1ST SESSION

# H. R. 1954

To revise the provisions of the Immigration and Nationality Act relating to naturalization through service in the Armed Forces, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 6, 2003

Mr. SENSENBRENNER (for himself, Mr. COBLE, Mr. FLAKE, Mr. GUTIERREZ, Mr. HASTINGS of Washington, Mr. ISSA, Mr. JENKINS, Mr. JONES of North Carolina, Mr. KELLER, Mr. CONYERS, Ms. JACKSON-LEE of Texas, and Mr. BERMAN) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To revise the provisions of the Immigration and Nationality Act relating to naturalization through service in the Armed Forces, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Armed Forces Natu-  
5 ralization Act of 2003”.

1 SEC. 2. NATURALIZATION THROUGH SERVICE IN ARMED  
2 FORCES.

3 (a) REDUCTION OF PERIOD FOR REQUIRED SERV-  
4 ICE.—Section 328(a) of the Immigration and Nationality  
5 Act (8 U.S.C. 1439(a)) is amended by striking “three  
6 years,” and inserting “one year,”.

7 (b) PROHIBITION ON IMPOSITION OF FEES RELAT-  
8 ING TO NATURALIZATION.—Title III of the Immigration  
9 and Nationality Act (8 U.S.C. 1401 et seq.) is amended—

10 (1) in section 328(b)—

11 (A) in paragraph (3)—

12 (i) by striking “honorable. The” and  
13 inserting “honorable (the”;

14 (ii) by striking “discharge.” and in-  
15 serting “discharge); and”;

16 (B) by adding at the end the following:

17 “(4) notwithstanding any other provision of  
18 law, no fee shall be charged or collected from the  
19 person for filing the application, or for the issuance  
20 of a certificate of naturalization upon being granted  
21 citizenship, and no clerk of any State court shall  
22 charge or collect any fee for such services unless the  
23 laws of the State require such charge to be made,  
24 in which case nothing more than the portion of the  
25 fee required to be paid to the State shall be charged  
26 or collected.”; and

1 (2) in section 329(b)—

2 (A) in paragraph (2), by striking “and” at  
3 the end;

4 (B) in paragraph (3), by striking the pe-  
5 riod at the end and inserting “; and”; and

6 (C) by adding at the end the following:

7 “(4) notwithstanding any other provision of  
8 law, no fee shall be charged or collected from the  
9 person for filing the application, or for the issuance  
10 of a certificate of naturalization upon being granted  
11 citizenship, and no clerk of any State court shall  
12 charge or collect any fee for such services unless the  
13 laws of the State require such charge to be made,  
14 in which case nothing more than the portion of the  
15 fee required to be paid to the State shall be charged  
16 or collected.”.

17 (c) NATURALIZATION PROCEEDINGS OVERSEAS FOR  
18 MEMBERS OF ARMED FORCES.—Notwithstanding any  
19 other provision of law, the Secretary of Homeland Secu-  
20 rity, the Secretary of State, and the Secretary of Defense  
21 shall ensure that any applications, interviews, filings,  
22 oaths, ceremonies, or other proceedings under title III of  
23 the Immigration and Nationality Act (8 U.S.C. 1401 et  
24 seq.) relating to naturalization of members of the Armed  
25 Forces are available, to the maximum extent practicable,



1 through United States embassies, consulates, and United  
2 States military installations overseas.

3 (d) TECHNICAL AMENDMENT.—Section 328(b)(3) of  
4 the Immigration and Nationality Act (8 U.S.C.  
5 1439(b)(3)) is amended by striking “Attorney General,”  
6 and inserting “Secretary of Homeland Security,”.

7 **SEC. 3. POSTHUMOUS CITIZENSHIP THROUGH DEATH**  
8 **WHILE ON ACTIVE-DUTY SERVICE IN ARMED**  
9 **FORCES.**

10 (a) IN GENERAL.—Section 329A of the Immigration  
11 and Nationality Act (8 U.S.C. 1440–1) is amended by  
12 striking subsection (e) and inserting the following:

13 “(e) PROHIBITION ON IMPOSITION OF FEES.—Not-  
14 withstanding any other provision of law, no fee shall be  
15 charged or collected from a person for filing a request for  
16 the granting of posthumous citizenship under subsection  
17 (c), or for the issuance of a document under subsection  
18 (d).

19 “(f) BENEFITS FOR SURVIVORS.—

20 “(1) SPOUSES.—Notwithstanding the second  
21 sentence of section 201(b)(2)(A)(i), a person who is  
22 the surviving spouse of a person granted post-  
23 humous citizenship under this section, and who was  
24 living in marital union with the citizen spouse at the  
25 time of death, shall be considered, for purposes of

1 section 201(b), to remain an immediate relative after  
2 the date of the citizen's death, but only until the  
3 date on which the surviving spouse remarries.

4 “(2) CHILDREN.—Notwithstanding the second  
5 sentence of section 201(b)(2)(A)(i), a person who is  
6 the surviving child of a person granted posthumous  
7 citizenship under this section, and who is an unmar-  
8 ried person under 21 years of age on the date on  
9 which the petition under paragraph (4) is filed, shall  
10 be considered, for purposes of section 201(b), to re-  
11 main an immediate relative after the date of the citi-  
12 zen's death (regardless of changes in age or marital  
13 status after such filing date).

14 “(3) PARENTS.—Notwithstanding the first sen-  
15 tence of section 201(b)(2)(A)(i), a person who is the  
16 surviving parent of a person granted posthumous  
17 citizenship under this section shall be considered, for  
18 purposes of section 201(b), to remain an immediate  
19 relative after the date of the citizen's death, and the  
20 requirement that the citizen be at least 21 years of  
21 age shall not apply.

22 “(4) SELF-PETITIONS.—

23 “(A) IN GENERAL.—In the case of a sur-  
24 viving spouse, child, or parent who remains an  
25 immediate relative after the date of a citizen's

1 death pursuant to paragraph (1), (2), or (3),  
2 any petition under section 204 otherwise re-  
3 quired to be filed by the citizen to classify the  
4 spouse, child, or parent under section  
5 201(b)(2)(A)(i) may be filed instead by the  
6 spouse, child, or parent.

7 “(B) MINOR CHILDREN.—In the case of a  
8 child under 18 years of age on the filing date,  
9 the petition described in subparagraph (A) shall  
10 be filed on behalf of the child by a parent or  
11 legal guardian of the child.

12 “(5) DEADLINE.—Paragraphs (1) through (4)  
13 shall apply only if the petition under paragraph (4)  
14 is filed not later than 2 years after the date on  
15 which the request under subsection (c) is granted.

16 “(6) CONVERSION OF PETITIONS.—In the case  
17 of a petition under section 204 initially filed for an  
18 alien’s classification as a family-sponsored immi-  
19 grant under section 203(a)(2)(A), based on the  
20 alien’s spouse or parent being lawfully admitted for  
21 permanent residence, upon the grant of posthumous  
22 citizenship under this section to the petitioner, the  
23 Secretary of Homeland Security—

24 “(A) shall convert such petition to a peti-  
25 tion filed under paragraph (4) to classify the

1 alien as an immediate relative under subsection  
2 (b)(2)(A)(i);

3 “(B) shall ensure that the priority date as-  
4 signed upon receipt of the original petition is  
5 maintained; and

6 “(C) otherwise shall treat the date on  
7 which the request under subsection (c) is grant-  
8 ed as the petition filing date for purposes of  
9 this subsection.

10 “(7) WAIVER OF PUBLIC CHARGE GROUND FOR  
11 INADMISSIBILITY.—In determining the admissibility  
12 of any alien accorded an immigration benefit under  
13 this subsection, the grounds for inadmissibility speci-  
14 fied in section 212(a)(4) shall not apply.

15 “(8) NO BENEFITS FOR OTHER RELATIVES.—  
16 Nothing in this section shall be construed as pro-  
17 viding for any benefit under this Act for any relative  
18 of a person granted posthumous citizenship under  
19 this section who is not treated as a spouse, child, or  
20 parent under this subsection.”.

21 (b) TECHNICAL AMENDMENTS.—Section 329A of the  
22 Immigration and Nationality Act (8 U.S.C. 1440–1) is  
23 amended by striking “Attorney General” each place such  
24 term appears and inserting “Secretary of Homeland Secu-  
25 rity”.

1 SEC. 4. IMMIGRATION BENEFITS FOR SURVIVING ALIEN  
2 SPOUSES, CHILDREN, AND PARENTS OF CITI-  
3 ZENS WHO DIE WHILE ON ACTIVE DUTY.

4 (a) TREATMENT AS IMMEDIATE RELATIVES.—Sec-  
5 tion 201(f) of the Immigration and Nationality Act (8  
6 U.S.C. 1151(f)) is amended by adding at the end the fol-  
7 lowing:

8 “(4) SURVIVING ALIEN SPOUSES, CHILDREN,  
9 AND PARENTS OF CITIZENS WHO DIE WHILE ON AC-  
10 TIVE-DUTY SERVICE IN ARMED FORCES.—

11 “(A) BENEFITS FOR SURVIVORS.—

12 “(i) IN GENERAL.—The benefits  
13 under this paragraph shall apply only to a  
14 surviving spouse, child, or parent of a per-  
15 son who, while a citizen of the United  
16 States—

17 “(I) served honorably in an ac-  
18 tive-duty status in the military, air, or  
19 naval forces of the United States dur-  
20 ing any period described in the first  
21 sentence of section 329(a); and

22 “(II) died as a result of injury or  
23 disease incurred in or aggravated by  
24 such service.

25 “(ii) DETERMINATIONS.—The execu-  
26 tive department under which the citizen so

1           served shall determine whether the citizen  
2           satisfied the requirements of this subpara-  
3           graph.

4           “(B) SPOUSES.—Notwithstanding the sec-  
5           ond sentence of subsection (b)(2)(A)(i), a per-  
6           son who is a surviving spouse described in sub-  
7           paragraph (A), and who was living in marital  
8           union with the citizen described in such sub-  
9           paragraph at the time of death, shall be consid-  
10          ered, for purposes of subsection (b), to remain  
11          an immediate relative after the date of the citi-  
12          zen’s death, but only until the date on which  
13          the surviving spouse remarries. In all other re-  
14          spects, the provisions of subsection (b)(2)(A)(i)  
15          and section 204(a)(1)(A)(ii) shall apply to such  
16          a surviving spouse.

17          “(C) CHILDREN.—Notwithstanding the  
18          second sentence of subsection (b)(2)(A)(i), a  
19          person who is a surviving child described in  
20          subparagraph (A), and who is an unmarried  
21          person under 21 years of age on the date on  
22          which a petition described in subparagraph (E)  
23          to classify the alien as an immediate relative is  
24          filed, shall be considered, for purposes of sub-  
25          section (b), to remain an immediate relative

1 after the date of the citizen's death (regardless  
2 of changes in age or marital status after such  
3 filing date).

4 “(D) PARENTS.—Notwithstanding the first  
5 sentence of subsection (b)(2)(A)(i), a person  
6 who is a surviving parent described in subpara-  
7 graph (A) shall be considered, for purposes of  
8 subsection (b), to remain an immediate relative  
9 after the date of the citizen's death, and the re-  
10 quirement that the citizen be at least 21 years  
11 of age shall not apply.

12 “(E) TREATMENT OF PETITIONS WITH RE-  
13 SPECT TO CHILDREN AND PARENTS.—

14 “(i) CONTINUATION OF PETITIONS.—  
15 A petition properly filed on behalf of a  
16 child or parent under section  
17 204(a)(1)(A)(i) by a citizen described in  
18 subparagraph (A) prior to the citizen's  
19 death shall be valid to classify the child or  
20 parent as an immediate relative pursuant  
21 to this paragraph. No new petition shall be  
22 required to be filed, and any priority date  
23 assigned prior to the death shall be main-  
24 tained.

1           “(ii) SELF-PETITIONS.—In the case of  
2           a surviving child or parent who remains an  
3           immediate relative after the date of a citi-  
4           zen’s death pursuant to subparagraph (C)  
5           or (D), any petition under section 204 oth-  
6           erwise required to be filed by the citizen to  
7           classify the child or parent under sub-  
8           section (b)(2)(A)(i) may be filed instead by  
9           the child or parent.

10           “(iii) MINOR CHILDREN.—In the case  
11           of a child under 18 years of age on the fil-  
12           ing date, the petition described in clause  
13           (ii) shall be filed on behalf of the child by  
14           a parent or legal guardian of the child.

15           “(iv) DEADLINE.—In the case of peti-  
16           tion under clause (ii), subparagraphs (C)  
17           and (D) shall apply only if the petition de-  
18           scribed in such clause is filed not later  
19           than 2 years after the date of the citizen’s  
20           death.

21           “(F) WAIVER OF PUBLIC CHARGE GROUND  
22           FOR INADMISSIBILITY.—In determining the ad-  
23           missibility of any alien accorded an immigration  
24           benefit under this paragraph, the grounds for



1 inadmissibility specified in section 212(a)(4)  
 2 shall not apply.”.

3 (b) TECHNICAL AMENDMENT.—Section 201(f)(1) of  
 4 the Immigration and Nationality Act (8 U.S.C. 201(f)(1))  
 5 is amended by striking “Attorney General” and inserting  
 6 “Secretary of Homeland Security”.

7 **SEC. 5. EFFECTIVE DATE.**

8 (a) IN GENERAL.—Except as provided in subsection  
 9 (b), this Act and the amendments made by this Act shall  
 10 take effect as if enacted on September 11, 2001.

11 (b) FEES.—The amendments made by this Act to  
 12 sections 328 through 329A of the Immigration and Na-  
 13 tionality Act (8 U.S.C. 1439–1440–1), insofar as such  
 14 amendments prohibit the imposition of a fee—

15 (1) shall take effect on the date of the enact-  
 16 ment of this Act; and

17 (2) shall not be construed to require the refund  
 18 or return of any fee collected before such date.

○

Chairman SENSENBRENNER. And the Chair recognizes himself for 5 minutes to explain this bill.

Since the beginning of Operation Iraqi Freedom, and, more specifically, because of the news that 10 members of our Armed Forces who died in combat were not U.S. citizens, several bills have been introduced to either ease the naturalization requirements of legal permanent residents in the Armed Forces or to provide immigration benefits to the surviving family members of those killed in service to America, or both.

We can never repay these noncitizen members of our military who made the ultimate sacrifice, but we can bring reasonable changes to the naturalization process for other permanent resident servicemembers willing to make the same sacrifice, and provide immigration benefits to family members who could have obtained such benefits had the servicemember not died in action.

My Committee staff has worked closely with the staffs of those Members who have introduced bills on this issue, including Representatives Hastings, Frost, Walter Jones, Solis and Issa, as well as the Committee staff of Ranking Member Conyers and Immigration Subcommittee Ranking Member Jackson Lee, to come up with a bipartisan compromise bill.

In addition, six Members who are not of this Committee testified yesterday at a hearing before the Subcommittee regarding their legislation.

H.R. 1954, the "Armed Forces Naturalization Act," is a consensus bill in which I have done my best to address the concerns of the other interested Members and balance competing interests. I am grateful that Mr. Conyers and Ms. Jackson Lee have signed on as original cosponsors. Not every Member got everything they wanted in this bill, but each of the Members we consulted with got something that they wanted, and we have a bill that should easily pass the House with support from Members with widely varying views on immigration who all want to honor the service to our country of permanent residents in the Armed Forces.

H.R. 1954 reduces the military service requirement to apply for naturalization during peacetime from 3 years to 1 year. Some bills reduce the service requirement to 2 years. And one bill lowers it to no years. One year is an obvious compromise. It lowers the required years of service while maintaining the requirement that a military member must still establish their worthiness for expedited naturalization through a period of honorable military service during peacetime.

For soldiers this bill also waives the fees for the naturalization petition or naturalization certificate, along with related state fees, and waives the fee for posthumous citizenship applications. This will ease the financial burden for military members who perform an outstanding service for our country and receive little money in return.

H.R. 1954 would require the Departments of Homeland Security, State, and Defense to ensure that naturalization applications, interviews, filings, oaths and ceremonies are available, to the maximum extent practicable, at U.S. embassies, consulates, and military installations.

Currently, a soldier must be physically present in the United States to file a naturalization application, to be interviewed for the

application, and to take the oath of citizenship. This requirement causes some soldiers to have to leave their posts abroad to return to the United States at their own expense. This is both expensive and causes unnecessary interruption to their military service.

The bill would also permit surviving immediate family members of both military members who are U.S. citizens before death, and immigrant military members who are granted citizenship posthumously, to apply for immigration benefits as if the military member had not died. Under current law, family members of posthumous citizens cannot apply for immigration benefits through the posthumous citizen. This bill would permit the spouse, parents, and children to do so.

Likewise, it would permit the spouse, parents, and children to self-petition for green cards or continue to pursue their already filed petition as if the U.S. citizen had not died.

Finally, this bill would waive the affidavit of support public charge ground of inadmissibility in both these categories. If the military member was the breadwinner, we elected not to penalize the immediate relative because their means of support died during military service to our country.

I urge my colleagues to support this carefully crafted and broadly supported compromise bill.

The gentlewoman from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman, and let me thank you very much for the cooperative work of this Committee—the Chairman of the Committee, the Ranking Member of the Committee, the Chairman of the Subcommittee. In working, as I said earlier, in putting some initial remarks into the record on an issue,—

Chairman SENSENBRENNER. Without objection.

Ms. JACKSON LEE.—that many of us would have thought would have been corrected.

You are absolutely right, Mr. Chairman, that we make better the process of aiding legal resident military personnel to assume citizenship, but, as well, we give honor to those who are fallen heroes who have lost their lives in a way that provides benefits for their families and grants them posthumous citizenship.

I think this is a giant leap in light of the great response of the legal resident community and their service in Iraq and, as well, the service that they have given us through all of our world wars, including World War II, World War I, the Korean War, Vietnam, and all of the conflicts that we have had.

As I read in my remarks earlier, it was noted by a particular individual, fallen individual—that is Lance Corporal Gutierrez—that he told his foster parent, “I was born the day I arrived in this country.”

This legislation will give honor to those who live, who serve us in the United States military, and it will certainly give honor and respect and admiration to those who have fallen and provide us with an opportunity to correct the injustices in immigration law.

With that, Mr. Chairman, I ask my colleagues to support this legislation, and I have an amendment that I would like to offer when appropriate, Mr. Chairman.

Chairman SENSENBRENNER. Thank you. Without objection, all Members may include opening statements in the record at this point.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF TEXAS

On March 21, 2003, in a battle with Iraq's Republican Guard troops, Lance Cpl. Jose Gutierrez, a young immigrant from Guatemala, was killed in the service of the country he loved. According to Martha Espinosa, one of his former foster mothers, "He once told me, 'I was born the day I arrived in this country.'"

Jose was one of four fallen Marines who deserve special mention because they died in service to a country they could not yet call their own. The other three were Pfc. Francisco Martinez Flores, Cpl. Jose Angel Garibay, and Lance Cpl. Jesus Suarez del Solar, all born in Mexico.

Immigrants have long seen service in the U.S. military as a gateway to citizenship, education and economic opportunity, and the deaths of these four Marines echo those of other non-citizens who died for this country before them. Their valor is well documented.

Service in the United States military, particularly in times of conflict, is the ultimate act of patriotism. Our immigration laws traditionally have allowed for expedited citizenship consideration for non-citizen members of the United States military, even in peacetime.

For example, Section 328 of the Immigration and Nationality Act allows non-citizen members of the military in peacetime to become citizens after three years of service, instead of the usual five-year wait required of non-military applicants.

In addition, Section 329 of INA allows non-citizens to receive immediate naturalization eligibility through their active duty service in the Armed Forces during periods of military hostilities. This opportunity becomes available when the President designates by Executive Order that the armed services are or were engaged in armed conflict with a hostile foreign force.

Under Section 329 of the INA, 143,000 non-citizen military participants in World Wars I and II, and 31,000 members of the U.S. military who fought during the Korean War, became naturalized American citizens. Executive Orders following Vietnam and the Persian Gulf War collectively led to more than 100,000 members of the U.S. military becoming American citizens.

One Congressman, Mr. Gutierrez, proposed a fascinating bill that would take such gratitude a step further by providing automatic naturalization the moment that noncitizen soldiers are ordered to serve in a combat zone.

In any case, notwithstanding the generosity that American has shown towards people who have served honorably in our armed forces, the military naturalization provisions need improvement. Chairman Sensenbrenner's "Armed Forces Naturalization Act of 2003" represents a remarkable bipartisan effort to make those improvements. I am proud to be an original cosponsor of this bill.

For instance, the Armed Forces Naturalization Act of 2003 will reduce the time that a member of the armed forces has to serve before being eligible for naturalization from 3 years to a single year. The fees normally charged for naturalization will be waived for members of the armed forces. Effort will be made to provide locations overseas at which soldiers will be able to take the naturalization examination, the interviews, and the other steps in the naturalization process. This will avoid the expense to the soldier serving overseas of paying for his own transportation to and from the United States to complete the naturalization process.

Current law provides for posthumous citizenship when a soldier is killed during a period that has been declared a time of military hostilities by the President of the United States, but these provisions specifically exclude derivative immigration benefits for the soldier's spouse and children. This bill will correct that inequity by allowing the spouse, children, and parents of such a soldier to self-petition for immediate relative status on the basis of the soldier's posthumous citizenship.

I believe, however, that we must go even further. For instance, current law sets forth a waiver that makes certain naturalization benefits available to the lawful permanent resident widow of a citizen soldier who dies while serving his country but not to the lawful permanent resident widow of a soldier who receives posthumous citizenship. I intend to offer an amendment later in this markup that will make this benefit available in both situations.

In addition, in the coming months of this session, we also need to work on benefits for the brothers and sisters of soldiers who are killed while serving our country. Currently, immigration status is not available in that situation, and, more disturb-

ingly, the siblings would have a 10 to 12-year wait for a visa even if they were able to get such status. We cannot tolerate such lengthy delays in the processing of benefits applications. Such delays are serious problems that we must face together and resolve.

Another serious problem is the fact that immigrants who are in the United States in an unlawful status for more than 6 months are barred thereafter from becoming a permanent resident for a period of 3 years. If they are in an unlawful status for more than a year, they are barred from becoming a permanent resident for a period of 10 years. It is completely unnecessary to have such harsh rules. Moreover, the waivers available to people who face such bars are far too narrow. If we cannot agree to eliminate these bars, we must work together to create reasonable waivers so that discretion is available when it is needed to correct an injustice.

I urge you to vote for the Armed Forces Naturalization Act of 2003. Thank you.

Chairman SENSENBRENNER. Are there amendments?

Ms. JACKSON LEE. I have an amendment.

Chairman SENSENBRENNER. The gentleman from Iowa.

Mr. KING. Thank you, Mr. Chairman. I wish to be recognized for the purposes of offering amendment No. 8.

The CHAIRMAN. We have an amendment at the desk. The clerk will report the amendment.

[The amendment follows:]

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**AMENDMENT TO H.R. 1954**  
**OFFERED BY MR. KING OF IOWA**

In section 2 of the bill, insert after subsection (b) the following (and redesignate provisions accordingly):

1       (e) REVOCATION OF CITIZENSHIP FOR SEPARATION  
2 FROM MILITARY SERVICE UNDER OTHER THAN HONOR-  
3 ABLE CONDITIONS.—Section 328 of the Immigration and  
4 Nationality Act (8 U.S.C. 1439) is amended by adding  
5 at the end the following:  
6       “(f) Citizenship granted pursuant to this section may  
7 be revoked in accordance with section 340 of this title if  
8 at any time subsequent to naturalization the person is sep-  
9 arated from the military, air, or naval forces under other  
10 than honorable conditions, and such ground for revocation  
11 shall be in addition to any other provided by law. The fact  
12 that the naturalized person was separated from the service  
13 under other than honorable conditions shall be proved by  
14 a duly authenticated certification from the executive de-  
15 partment under which the person was serving at the time  
16 of separation.”

The CLERK. Amendment to H.R. 1954, offered by Mr. King of Iowa:

In section 2 of the bill, insert after subsection (b) the following: (and redesignate provisions accordingly.).

Chairman SENSENBRENNER. Without objection, the amendment is considered as read. The gentleman from Iowa is recognized for 5 minutes.

Mr. KING. Thank you, Mr. Chairman. This amendment goes to the section of the bill titled "Revocation of Citizenship for Separation from Military Service Under Other than Honorable Conditions."

This amendment applies the same revocation provision in current law for members of the armed services who naturalize during periods of hostility to those naturalized in peacetime.

Under current law, noncitizen members of the Armed Forces who naturalize under section 329 of the Immigration Nationality Act, which provides for naturalization after service of only 1 day under hostilities, may have their citizenship revoked if they separate from service under less than honorable conditions.

So I believe that, given the shortened time period in this bill, back to 1 year for naturalization in peacetime, this revocation provision should apply to peacetime naturalization under section 328 as well.

So the reasoning is simple. If we are going to allow noncitizens of the Armed Forces to expedite their citizenship, requiring only 1 year rather than the current 3 years, we need to be sure about their commitment to our military and our country. The young men and women who serve honorably should be awarded with expedited citizenship. The few who do not serve honorably should not receive the same award, and that, Mr. Chairman, is the essence of the amendment.

Chairman SENSENBRENNER. Does the gentleman yield back?

Mr. KING. I yield back.

Chairman SENSENBRENNER. The question is on the—

Ms. LOFGREN. Mr. Chairman.

Chairman SENSENBRENNER. Gentlewoman from California.

Ms. LOFGREN. I have a question. I would like to move to strike the last word.

Chairman SENSENBRENNER. The gentlewoman is recognized for 5 minutes.

Ms. LOFGREN. I understand the thinking behind the amendment, which is not unreasonable, but my concern is this. My recollection—I didn't research it before coming in, but the primary—I think maybe the only time that citizenship may be revoked under current law is when it was obtained through fraud and therefore really never occurred.

I am concerned about what precedent this might set not just for military individuals, but also for citizens generally. Recently we heard the Attorney General proposing that citizens be stripped of their citizenship for political speech and some other activities that we think—at least I think are a mark of freedom. And I know that the gentleman is not suggesting that in this amendment, but I am concerned that this would inadvertently start us down that path, and wonder if the gentleman has thought about that issue and has researched it.

Mr. KING. Thank you, and if the gentlelady would—I have addressed this—if the gentlelady would yield.

Ms. LOFGREN. I do yield.

Mr. KING. Thank you. I did address this in my opening remarks, that those who acquire citizenship through the expedited version, through hostilities for only 1 day of service, fall under the same section that addresses the revocation of citizenship for less than honorable discharge. So those less-than-honorable conditions become extremely dishonorable. In fact, it requires an activity that runs contrary to honorable service, and that list is somewhat extensive but includes such things as rape and murder.

Ms. LOFGREN. All right. And reclaiming my time, I appreciate the clarification, and I yield back the time.

Mr. KING. Thank you.

Chairman SENSENBRENNER. The question is on the amendment offered by the gentleman from Iowa, Mr. King.

The gentleman from California wish to move to strike the last word? The gentleman is recognized for 5 minutes.

Mr. BERMAN. Thank you, Mr. Chairman. The Chairman has proposed a very good bill. All sides can find fault with some aspect of it, but it is a real effort to try and pull together a synthesis of the different proposals that were out there and to deal with what I think is a compelling situation.

And I guess I am asking the Chairman, if the bill moves as he has drafted it, without amendment, and we can prevail on our side to not make the perfecting amendments that we would like to see in there in the recognition of this compromise, would the Chairman be prepared to help create a dynamic whereby the bill as he has proposed it could move through?

Ms. JACKSON LEE. Would the gentleman yield?

Chairman SENSENBRENNER. Will the gentleman yield to me?

Mr. BERMAN. Okay.

Chairman SENSENBRENNER. I think that probably the best thing to do in order to expedite this amendment, or expedite this legislation, is not to offer and not to adopt any amendments today; but instead to attempt to work on refining whatever agreements there have been between now and the time this bill goes to the floor.

And if all Members would forbear on amendments that are controversial, including the gentleman from Iowa, we will have at least a week, and perhaps two, to figure out what to do on this. You know, I really don't want to have this bill saddled down with controversial amendments, because if this bill is not in shape to get passed on the suspension calendar, my fear is that we are talking through June or later in bringing this legislation up on the floor, and I think it is important to send the proper signal to our service people that we get this bill up on the floor as quickly as possible.

Mr. BERMAN. If I may just reclaim my time, then, and then I will yield to the gentlelady from Texas, I would be prepared—I feel very strongly about the issue that I had intended to raise by amendment, but if I have the opportunity during the general debate to be yielded some additional time just to speak to that issue, so that that could be one of the issues that is contemplated as we move from here to the floor, and if the gentleman from Iowa and others are willing to forbear on their proposed amendments, I think in recognition that you tried to put together a very good synthesis of



all the different proposals, that we should go along with your suggestion and seek to work out any problems in an effort to get a manager's amendment at the time the bill might be taken up, either during regular debate time or on suspension on the floor.

Ms. JACKSON LEE. Would the gentleman yield?

Mr. BERMAN. I would be happy to yield.

Ms. JACKSON LEE. I have a clarifying amendment which I think is extremely important. I guess I want to pose the question to the Chairman of the full Committee, with about a week's time that we can work through, I guess, a number of issues, and I would be happy to be cooperative in this effort, Mr. Chairman.

Chairman SENSENBRENNER. Will the gentleman from California who controls the time yield?

Mr. BERMAN. Yes.

Chairman SENSENBRENNER. You know, obviously when we move to suspend the rules, it can be with the manager's amendment that would be agreed to by all sides, and I think that this probably would be the best procedure to utilize.

Ms. JACKSON LEE. Well, if I could ask the gentleman from California—

Mr. BERMAN. I would be happy to yield back.

Ms. JACKSON LEE. As you may be aware, Mr. Sensenbrenner, I have an amendment that would help the spouse—the clarity of the spouse—

Chairman SENSENBRENNER. If the gentleman from California will yield—

Mr. BERMAN. I will.

Chairman SENSENBRENNER. That amendment was agreed to on both sides last night. So it certainly is a prime candidate for a manager's amendment.

Ms. JACKSON LEE. And I will just thank you very much, and I know that other Members have amendments as well that they would like considered, but thank you very much.

Mr. BERMAN. And, Mr. Chairman, before I yield whatever time I have remaining, how does the gentleman from Iowa feel about all of this? And I would be happy to yield to him for his reaction.

Mr. KING. If you would yield, thank you. You know, as I listen to this discussion move back and forth, I am concerned—I would like to see this process move forward, and I recognize the interest of both parties in that. I would like to also have an understanding that I have an opportunity to offer my language at some point.

Mr. BERMAN. As I understand the situation, the Chair is suggesting we all forbear on offering amendments now, that he will work with us between now and when this comes to the floor, that if these issues can be worked—

Chairman SENSENBRENNER. The time of the gentleman has expired. Without objection, the gentleman has 2 more minutes.

Mr. BERMAN. I thank the gentleman.

And that if we can work out a satisfactory resolution, they will be incorporated into a manager's amendment. I do have to say if the Chair seeks to put this on suspension, which I assume he might unless there is some serious controversial issue remaining, then everything will have to be done through a manager's amendment.

Mr. GALLEGLY. Would the gentleman yield?

Mr. BERMAN. I would be happy to yield to the gentleman.

Mr. GALLEGLY. I thank the gentleman. I would like to address this question to the Chair, with your concurrence.

Mr. Chairman, would it be your intent that the language, or similar language to what Mr. King is proposing, would be made a part of the manager's amendment that would be incorporated in the bill before—the bill before it would go to——

Chairman SENSENBRENNER. You know, we will—if the gentleman from California—the gentleman from California will further yield——

Mr. BERMAN. I will.

Chairman SENSENBRENNER. We have attempted to have this bill reflect a consensus of all of the competing proposals that have been introduced, and there are about six bills on this subject that have been introduced.

I can say that what I thought should have been a slam-dunk relative to getting agreement ended up causing a whole lot of staff time and a lot of compromising being done by the authors of all of the bills that had been introduced.

Certainly the topic of the gentleman from Iowa's amendment is relevant in terms of a manager's amendment, but I would like to get this bill agreed upon by both sides, and that is going to mean that both sides are going to have to bend a bit. If there isn't any bending, you know, then I would be forced to bring this bill on the floor up under a rule, and that means arguing with the leadership to get some time to do it.

Mr. GALLEGLY. Would the gentleman further yield?

Mr. BERMAN. I will.

Mr. GALLEGLY. I certainly agree with my esteemed Chairman that the art of legislation and compromise means bending sometimes, but not breaking.

I would yield back the balance of my time.

Ms. LOFGREN. Would the gentleman yield?

Mr. BERMAN. I would be happy to yield and bend but not break.

Chairman SENSENBRENNER. Without objection, the gentleman has 2 more minutes.

Ms. LOFGREN. I also have an amendment, and it was in one of the bills that was—proceeded the Chairman's compromise bill, and it would allow members of the Selective Reserves to be included. And I would note that since 9/11, 282,000 Selective Reservists have been called to duty. So I would inquire of the Chairman whether this amendment might also be considered in the weeks between now and the floor.

Chairman SENSENBRENNER. Well, if the gentleman from California will yield, I guess everything is on the table for consideration.

You know, there are two ways to do it. We can either pull the bill now and keep on talking about it and dealing with it at the next markup, which I think is a bad idea, you know; or everybody can forbear and we can talk about it between now and the time that it goes to the floor and hopefully reach an agreement that would either get a unanimous or a near unanimous vote on the floor.

Ms. LOFGREN. Well, if the gentleman would continue to yield——

Mr. BERMAN. I will.

Ms. LOFGREN. I think some of these amendments—my own, but actually Mr. Berman's is even more important—really need to be included or we will end up with a situation where family members are not going to even be able to attend to the gravesites of those who have been lost.

So I understand the Chairman's desire to get consensus, and yet there are some significant issues that need to be dealt with. And I am not sure what kind of assurance we have that that would be accomplished.

Chairman SENSENBRENNER. Would the gentleman yield to me?

I guess to bring this matter to a head, plan A is to report the bill out without an amendment, and anybody who has an amendment can continue negotiating between now and the time we go to the floor. Plan B is not to report the bill out today and continue negotiating and schedule this bill for the next markup.

Now, may I ask those who are thinking of proposing amendments whether they go for plan A or Plan B, and the Chair then can decide what to do?

Mr. BERMAN. Should we do it all together or—

Chairman SENSENBRENNER. I guess it would have to be unanimous, because there is no way the Chair can prevent the offering of amendments by Members of the Committee.

Mr. BERMAN. I think it is important enough to move this bill, that even though I recognize that—in the case of my amendment, my leverage to prevail may not be enhanced by us going in this process. I am also not so sure what my leverage to prevail is the other way. So I favor plan A. I think we ought to use your good offices to try and come to some resolution on these different issues.

I, for instance, am curious. The gentleman from Iowa, is he focused on his concern that the 1-year waiting period is not long enough to do the appropriate investigation? Are there other ways to achieve what he is concerned about than this way? These are the kinds of things that we can go through during the next week or 10 days.

Mr. KING. If the gentleman would yield.

Mr. BERMAN. I would be happy to.

Mr. KING OF IOWA. I am focused simply on the loophole in the law that the same revocation that can apply if one receives citizenship because of service during a time of military conflict, that that revocation can apply also if one receives this accelerated citizenship when we move the time back to a year. I am comfortable with a year period of time, but I am not comfortable with that time span.

Chairman SENSENBRENNER. The time of the gentleman has expired. I think what we ought to do is go through the regular order, and the pending question is the amendment of the gentleman from Iowa, Mr. King. Does anybody wish to discuss the King amendment further? The gentleman from Indiana, Subcommittee Chair.

Mr. HOSTETTLER. Move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. HOSTETTLER. Mr. Chairman, I want to reiterate the point that Mr. King has just now made. The suggestion was made that this is somewhat unusual in current law that an individual could be denaturalized other than a finding of fraud; that, in fact, the language for the gentleman's amendment comes directly from cur-

rent law in section 329 of the INA. And so that the gentleman seeks to only apply law that now is applicable to time of conflict and naturalization during a time of conflict as it is to apply to the new term, and that is a time of peace. And so this is not unprecedented. It is, I would think, an issue that should be noncontroversial, given that it is already in law today with regard to naturalization during times of conflict. So I wanted that clarified for the record, because a suggestion was made earlier that this might be somehow unusual. So I yield back the balance of my time.

Chairman SENSENBRENNER. The gentleman yields back. For what purpose does the gentleman from North Carolina seek recognition?

Mr. COBLE. Move to strike the last word.

Chairman SENSENBRENNER. And the gentleman is recognized for 5 minutes.

Mr. COBLE. And I will be very brief. I will speak in favor of the amendment and I want to say this to you. Conceptually, I agree with what we are trying to do here. But I want us to be alert and aware of the fact that this could be abused. And I want to avoid leaving the door ajar in the event that the tipping hand of abuse does rear its ugly head. But having said that, I agree with the gentleman from Iowa, but let us proceed very cautiously.

Mr. BERMAN. Would the gentleman yield?

Mr. COBLE. I would be glad to.

Mr. BERMAN. I thank you for yielding. I want to ask a question of the author of the amendment. Your point is not that if someone happens to end up being separated from service under other than honorable conditions, that citizenship will be automatically revoked. You are simply wanting to provide authority for whom to decide whether or not citizenship should be revoked. Who are you trying to give the discretion to, the Department of Homeland Security, armed services?

Mr. KING OF IOWA. If the gentleman would yield.

Mr. BERMAN. It is the gentleman from North Carolina's time.

Mr. COBLE. I will yield.

Mr. KING OF IOWA. I am seeking to allow that authority to go to the same authority that would do the revocation under section 329. And it is my understanding that that might happen under more than one department, but I would expect that it would be initiated under the armed services by possibly the Attorney General's Office or Homeland Security.

Mr. BERMAN. If the gentleman further yields. Am I correct that it is discretionary, it is not automatic? The fact that somebody got into a fist fight and was discharged for something other than fully honorable circumstances or had one relatively minor disciplinary incident will not automatically result in the revocation of citizenship? Am I understanding that?

Mr. KING OF IOWA. You are correct. And in fact, lines 6 and 7 say may be revoked and not shall be revoked.

Ms. LOFGREN. Would the gentleman yield?

Mr. COBLE. I will yield.

Ms. LOFGREN. Actually looking at the amendment, I think it is exactly the same as the provisions of law that applied for naturalization provisions in World War I, World War II, Korea and Vietnam under the code. It is the same.

Mr. COBLE. Is that addressed to me or the gentleman from Iowa?

Ms. LOFGREN. Actually, it was just a statement. It is exactly the same as what is in the code.

Mr. COBLE. I reclaim and yield back.

Chairman SENSENBRENNER. The question is on the King amendment. Those in favor will say aye. Opposed no. Ayes appear to have it, the ayes have it and the King amendment is adopted. Are there further amendments?

Ms. JACKSON LEE. I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 1954 offered by Ms. Jackson Lee of Texas. In section 3 of the bill, one, redesignate subsection B as subsection C. And 2, insert after subsection A the following: B, naturalization——

[The amendment follows:]

H.L.C.

**AMENDMENT TO H.R. 1954**  
**OFFERED BY MS. JACKSON-LEE OF TEXAS**

In section 3 of the bill—

- (1) redesignate subsection (b) as subsection (c);  
 and  
 (2) insert after subsection (a) the following:

1 (b) NATURALIZATION FOR SURVIVING SPOUSES.—  
 2 Section 319(d) of the Immigration and Nationality Act (8  
 3 U.S.C. 1430(d)) is amended by adding at the end the fol-  
 4 lowing:

5 "To be eligible for naturalization under this subsection,  
 6 the surviving spouse of a United States citizen must at  
 7 the time of examination on the application for naturaliza-  
 8 tion, reside in the United States pursuant to a lawful ad-  
 9 mission for permanent residence. For purposes of this sub-  
 10 section, the terms 'United States citizen' and 'citizen  
 11 spouse' include a person granted posthumous citizenship  
 12 under section 329A."

In section 201(f)(4)(A) of the Immigration and Na-  
 tionality Act, as added by section 4(a) of the bill, strike  
 clause (i) and insert the following:

13 " (i) IN GENERAL.—The benefits  
 14 under this paragraph shall apply only to a  
 15 surviving spouse, child, or parent of a per-

H.L.C.

2

1 son who, while a citizen of the United  
 2 States, died during a period of honorable  
 3 service in the Armed Forces of the United  
 4 States as a result of injury or disease in-  
 5 curred in or aggravated by such service.

In section 201(f)(4)(B) of the Immigration and Na-  
 tionality Act, as added by section 4(a) of the bill, strike  
 the last sentence.

In section 201(f)(4)(E) of the Immigration and Na-  
 tionality Act, as added by section 4(a) of the bill—

(1) in the subparagraph heading, strike “WITH  
 RESPECT TO CHILDREN AND PARENTS”;

(2) in clause (i), strike “child or parent” each  
 place such term appears and insert “spouse, child,  
 or parent”;

(3) in clause (ii), add at the end the following:

6 “In the case of a surviving spouse who re-  
 7 mains an immediate relative after the date  
 8 of a citizen’s death pursuant to subpara-  
 9 graph (B), the spouse may petition under  
 10 section 204(a)(1)(A)(ii) and shall be treat-  
 11 ed as an alien spouse described in the sec-  
 12 ond sentence of subsection (b)(2)(A)(i) for  
 13 such purpose.”; and

H.L.C.

3

1 (4) in clause (iv), strike "(C) and (D)" and in-  
 2 sert "(B), (C), and (D)".





Chairman SENSENBRENNER. Without objection the amendment is considered as read. The gentlewoman from Texas is recognized for 5 minutes.

Ms. JACKSON LEE. Thank you very much Mr. Chairman. As my colleagues—

Chairman SENSENBRENNER. Would the gentlewoman yield?

Ms. JACKSON LEE. I would be happy yield.

Chairman SENSENBRENNER. This is the amendment that was agreed to last night on a bipartisan basis and I would urge its approval.

Ms. JACKSON LEE. I thank you very much, Mr. Chairman, and I will simply say, in conclusion, so the Members can know what this amendment is, this amendment would waive the 3-year resident requirement in the case of a lawful permanent resident spouse, whose citizen spouse received citizenship posthumously. It does so when the person does so in life, and now this will do so in death if the individual is in the United States military. And we just want to make sure that we treat all fairly who have been willing to offer themselves to serve in the United States military and protect the value of this Nation. I ask my colleagues to support this amendment.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF TEXAS

Ordinarily, a lawful permanent resident must be married to a United States citizen for a period of 3 years before the lawful permanent resident spouse is eligible to apply for naturalization as the spouse of a United States citizen. Section 319(d) of the Immigration and Nationality Act, 8 U.S.C. § 1430(d), waives that requirement when the lawful permanent resident's citizen spouse dies during a period of honorable service in the Armed Forces. The pertinent part of section 319(d) reads as follows:

Any person who is the surviving spouse of a United States citizen, whose citizen spouse dies during a period of honorable service in the Armed Forces of the United States and who was living in marital union with the citizen spouse at the time of his death, may be naturalized upon compliance with all the requirements of this title except that no prior residence or specified physical presence within the United States . . . shall be required.

This amendment would waive the 3-year residence requirement in the case of the lawful permanent resident spouse whose citizen spouse receives citizenship posthumously. The only difference between the two situations is that the one addressed by current law applies to a soldier who receives his citizenship while he is alive, whereas in the second situation, the citizenship is received posthumously. In both cases the soldier is a citizen who is killed during a period of honorable military service. If anything, the posthumous situation is more compelling than the other situation. Posthumous citizenship is given when a soldier dies during a period of military hostility.

The amendment also would make technical corrections in the Armed Forces Naturalization Act. For instance, as presently written, the bill provides benefits to the surviving "children and parents" of a soldier that was naturalized posthumously. The benefit is intended to go to the surviving "spouse" also.

I urge you to vote for this amendment. Thank you.

Chairman SENSENBRENNER. Gentlewoman yield back?

Ms. JACKSON LEE. Yes.

Chairman SENSENBRENNER. The question is on the amendment offered by the gentlewoman from Texas, Ms. Jackson Lee. Those in favor will say aye. Opposed no. The ayes appear to have it the ayes have it. Are there further amendments. Gentleman from Iowa?

Mr. KING OF IOWA. I would like to offer amendment number 7.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 1954 offered by Mr. King of Iowa. In section 329(a)(f) 3 of the Immigration and Naturalization Act as added by section 3(a) of the bill, strike under this section shall, and insert under this section and who is un—who is lawfully.

Chairman SENSENBRENNER. Without objection the amendment is considered as read and the gentleman from Iowa is recognized for 5 minutes.

[The amendment follows:]

H.L.C.

**AMENDMENT TO H.R. 1954**  
**OFFERED BY MR. KING OF IOWA**

In section 329A(f)(3) of the Immigration and Nationality Act, as added by section 3(a) of the bill, strike "under this section shall" and insert "under this section, and who is lawfully present in the United States on the date of the citizen's death, shall".

In section 201(f)(4)(D) of the Immigration and Nationality Act, as added by section 4(a) of the bill, strike "subparagraph (A) shall" and insert "subparagraph (A), and who is lawfully present in the United States on the date of the citizen's death, shall".



Mr. KING OF IOWA. Thank you, Mr. Chairman. This amendment goes to the issue of how far we will extend citizenship and where we grant an opportunity for citizenship for the spouse, the children and the parents of a deceased service man or woman. That is also—and this allows for that his extension to go on into foreign countries and parents who may not even know the whereabouts of their child. What it does is it draws a line a little bit than the opening that is there in the bill and it may be an inadvertent opening, but it simply says that those parents who are lawfully present in the United States, and if they have started any citizenship proceedings, they would be present in the United States, and we certainly would want to preserve that opportunity, but if they happen to live in a foreign country, or potentially are in the country illegally for one reason or another, then we are rewarding that may not be interested citizenship or in fact may have broken our laws. So it draws a line and it says if they are lawfully present in the United States, and we preserve the opportunity for citizenship for those parents who are, but do not extend it for those who are not. And I yield back.

Chairman SENSENBRENNER. The question is on the adoption of the King amendment. Those in favor—

Ms. LOFGREN. Mr. Chairman.

Chairman SENSENBRENNER. Gentlewoman from California.

Ms. LOFGREN. I move to strike the last word.

Chairman SENSENBRENNER. The gentlewoman is recognized for 5 minutes.

Ms. LOFGREN. Number one, I have a copy of the act here and it is printed March 2003 and there is at least in this version of the Act Number 329(a)(f) that I can find. And it seems to be—I guess this is a question, what am I missing here in the latest printing of the act and—it is added in the bill, okay. Would this preclude someone who is here, let us say the individual who is in the armed services who dies has a spouse who is—has overstayed her student visa by 6 months and is in unlawful status, would that preclude that spouse from taking advantage of the provision—the other provisions of the act?

Mr. KING OF IOWA. If the gentlelady yield.

Ms. LOFGREN. I would.

Mr. KING OF IOWA. It would be my opinion that it would. We are seeking to avoid rewarding illegal behavior. And if they are not lawfully present in the United States, they would fall underneath this provision.

Ms. LOFGREN. Regaining my time, we would actually be saying that the spouse would be deported, unable to attend the grave site of the soldier who died in service of the United States?

Mr. KING OF IOWA. If the gentlelady would yield. This amendment goes only to the parents, not to the spouse or the children.

Ms. LOFGREN. So the parents would not be—reclaiming my time—attend to the grave site of their son or daughter who died in the service of the United States of America?

Mr. KING OF IOWA. If the gentlelady would yield.

Ms. LOFGREN. I would yield.

Mr. KING OF IOWA. I don't believe there would be any provision that prevent the parents from visiting the grave site. There just wouldn't be an automatic provision to allow access to citizenship.

Mr. BERMAN. Would the gentlelady yield? I truly do not understand what this amendment is trying to get at. A legal permanent resident, or a U.S. Citizen for that matter, who dies in combat and has a petition pending to bring his mother in from Mexico or India or Great Britain as a permanent immigrant, and that is pending and you are saying that we are now going to—because she was not lawfully present in the United States on the date that that citizen or legally permanent resident died in combat, that petition is extinguished. They are complying with all the laws. Surely you don't intend to do this and why would you want to void that petition? The person is waiting in their own country or they were in this country legally and returned because the son was in combat to be with another sibling who was living in the home country and didn't happen to be in the United States at that time.

Ms. LOFGREN. Or to help with the children while the mother is off in combat.

Mr. BERMAN. I think the gentleman should take a look at the language of his amendment and see how it affects the petitioning system in a fashion that I can't believe he really intends to do.

Mr. KING OF IOWA. Would the gentleman yield?

Ms. LOFGREN. The time is mine and I would yield.

Mr. KING OF IOWA. This amendment only addresses the circumstances for posthumous citizenship, and therefore under those circumstances it wouldn't be possible for those proceedings to be initiated. They could only be initiated after the posthumous citizenship. Those particular circumstances the gentleman demonstrated would not apply.

Ms. LOFGREN. I would yield to the gentlelady from Texas.

Ms. JACKSON LEE. I guess I see the direction of Chairman Sensenbrenner's initial comments about amendments. This started out to honor those who were willing to offer their lives. This amendment in its complexity and its inability to be understood takes away from that honor, but I will cite an example. There have been examples of those who wait for a variety of reasons. The language that you have indicates be present who is lawfully present in the United States on the date of the citizen's death. That means that if family members were away on vacation or away out tending to business outside of the boundaries of the United States and they got a message of their fallen loved one, then you are suggesting—

Chairman SENSENBRENNER. The time of the gentlewoman of California has expired.

Ms. JACKSON LEE. And I was just wondering why you would want to undermine a bill that was intended to honor to the individuals who lost their lives.

Chairman SENSENBRENNER. The question is on the King amendment. Those in favor will say aye. Opposed no. Noes appear to have it, and the amendment is not agreed to.

Mr. KING OF IOWA. rollcall.

Chairman SENSENBRENNER. A rollcall is requested. Those in favor of the amendment of the gentleman from Iowa, Mr. King, when your name is called answer aye. Those opposed no and the clerk will call the roll.

The CLERK. Mr. Hyde?

[no response.]

The CLERK. Mr. Coble?

[no response.]  
 The CLERK. Mr. Smith?  
 Mr. SMITH. Aye.  
 The CLERK. Mr. Smith aye.  
 Mr. Gallegly.  
 Mr. GALLEGLY. Aye.  
 The CLERK. Mr. Gallegly aye.  
 Mr. Goodlatte?  
 [no response.]  
 The CLERK. Mr. Chabot?  
 [no response.]  
 The CLERK. Mr. Jenkins?  
 [no response.]  
 The CLERK. Mr. Cannon?  
 [no response.]  
 The CLERK. Mr. Bachus?  
 Mr. BACHUS. Aye.  
 The CLERK. Mr. Bachus aye.  
 Mr. Hostettler.  
 Mr. HOSTETTLER. Aye.  
 The CLERK. Mr. Hostettler aye.  
 Mr. Green.  
 Mr. GREEN. Aye.  
 The CLERK. Mr. Green aye.  
 Mr. Keller.  
 Mr. KELLER. Aye.  
 The CLERK. Mr. Keller aye.  
 Ms. Hart?  
 [no response.]  
 The CLERK. Mr. Flake?  
 [no response.]  
 The CLERK. Mr. Pence?  
 [no response.]  
 The CLERK. Mr. Forbes.  
 Mr. FORBES. Aye.  
 The CLERK. Mr. Forbes aye.  
 Mr. King.  
 Mr. KING. Aye.  
 The CLERK. Mr. King aye.  
 Mr. Carter.  
 Mr. CARTER. Aye.  
 The CLERK. Mr. Carter aye.  
 Mr. Feeney.  
 Mr. FEENEY. Aye.  
 The CLERK. Mr. Feeney aye.  
 Mrs. Blackburn?  
 [no response.]  
 The CLERK. Mr. Conyers?  
 [no response.]  
 The CLERK. Mr. Berman.  
 Mr. BERMAN. No.  
 The CLERK. Mr. Berman no.  
 Mr. Boucher?  
 [no response.]  
 The CLERK. Mr. Nadler.

Mr. NADLER. No.  
 The CLERK. Mr. Nadler no.  
 Mr. Scott?  
 [no response.]  
 The CLERK. Mr. Watt?  
 [no response.]  
 The CLERK. Ms. Lofgren?  
 Ms. LOFGREN. No.  
 The CLERK. Ms. Lofgren no.  
 Ms. Jackson Lee.  
 Ms. JACKSON LEE. No.  
 The CLERK. Ms. Jackson Lee no.  
 Ms. Waters?  
 [no response.]  
 The CLERK. Mr. Meehan.  
 Mr. MEEHAN. No.  
 The CLERK. Mr. Meehan no.  
 Mr. Delahunt?  
 [no response.]  
 The CLERK. Mr. Wexler?  
 [no response.]  
 The CLERK. Ms. Baldwin.  
 Ms. BALDWIN. No.  
 The CLERK. Ms. Baldwin no.  
 Mr. Weiner?  
 [no response.]  
 The CLERK. Mr. Schiff?  
 [no response.]  
 The CLERK. Ms. Sánchez.  
 Ms. SÁNCHEZ. No.  
 The CLERK. Ms. Sánchez no.  
 Mr. Chairman.  
 Chairman SENSENBRENNER. No.  
 The CLERK. Mr. Chairman no.  
 Chairman SENSENBRENNER. Are there additional Members who wish to cast or change their votes?  
 Gentleman from Utah, Mr. Cannon.  
 Mr. CANNON. No.  
 The CLERK. Mr. Cannon no.  
 Chairman SENSENBRENNER. Gentlewoman from Tennessee, Ms. Blackburn.  
 Mrs. BLACKBURN. Aye.  
 The CLERK. Ms. Blackburn aye.  
 Chairman SENSENBRENNER. Gentleman from North Carolina, Mr. Coble.  
 Mr. COBLE. Aye.  
 The CLERK. Mr. Coble aye.  
 Chairman SENSENBRENNER. Gentleman from Tennessee, Mr. Jenkins.  
 Mr. JENKINS. Aye.  
 The CLERK. Mr. Jenkins aye.  
 Chairman SENSENBRENNER. Further Members who wish to cast or change their votes?  
 Mr. BERMAN. For purposes——  
 Chairman SENSENBRENNER. You are interrupting rollcall.

Mr. BERMAN. I would like to change from a no to aye.

The CLERK. Mr. Berman aye.

Chairman SENSENBRENNER. Further Members wish to cast or change their votes? If not, the clerk will report.

The CLERK. Mr. Chairman, there are 14 ayes and 8 noes.

Mr. BERMAN. Point of order.

Chairman SENSENBRENNER. State your point of order.

Mr. BERMAN. At what point may a Member who voted on the prevailing side ask for reconsideration of the vote by which the amendment was adopted?

Chairman SENSENBRENNER. At any time prior to the bill being reported favorably.

Mr. BERMAN. Thank you, Mr. Chairman.

Chairman SENSENBRENNER. Are there further amendments?

Mr. BERMAN. I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 1954 offered by Mr. Berman and Ms. Sánchez. On page 7, strike lines 14—10 to 14 and insert the following:

Chairman SENSENBRENNER. Without objection the amendment is considered as read. The gentleman from California will be recognized for 5 minutes.

[The amendment follows:]



AMENDMENT TO H.R. 1954  
OFFERED BY MR. BERMAN AND MS. SÁNCHEZ

On page 7, strike lines 10 – 14 and insert the following:

1           “(7) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.— In determining the  
2           admissibility of any alien accorded an immigration benefit under this subsection, the  
3           grounds for admissibility specified in paragraphs (4) and (7) of section 212(a) shall not  
4           apply. Notwithstanding any other provision of law, the Secretary of Homeland Security  
5           may waive sections 212(a)(6)(A) and 212(a)(9)(B) and (C) with respect to such an alien.  
6           Any such waiver by the Secretary of Homeland Security shall be in writing and shall be  
7           granted only on an individual basis following an investigation.

On page 11, strike lines 21-24 and on page 12 strike lines 1-2 and insert the following:

1           “(F) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.— In determining the  
2           admissibility of any alien accorded an immigration benefit under this subsection, the  
3           grounds for admissibility specified in paragraphs (4) and (7) of section 212(a) shall not  
4           apply. Notwithstanding any other provision of law, the Secretary of Homeland Security  
5           may waive sections 212(a)(6)(A) and 212(a)(9)(B) and (C) with respect to such an alien.  
6           Any such waiver by the Secretary of Homeland Security shall be in writing and shall be  
7           granted only on an individual basis following an investigation.

Mr. BERMAN. Thank you, Mr. Chairman. I want to again state that I appreciate the Chairman's willingness to try and create a bipartisan process in the negotiations on the bill. I think every bill that was introduced, all seven of them, the goals were the same. The authors, and I think a strong majority of the Congress, and I believe the American public want to reward the dedication of lawful permanent residents serving in the military by making it as easy as possible for them to become full members of the country they are serving on the battlefield. We want to honor the sacrifice of both lawful permanent residents and U.S. Citizens who have been killed in service, and we are doing it by ensuring that their families back in the U.S. Are treated fairly by the country that they gave their lives to defend.

And the bill is a good start. But it has come to my attention that there may be some families of these brave service members who would not be helped by this bill. This morning's New York Times points out one of the provisions that this bill lacks for people who do not have proper documents, for people whose presence may not be authorized in the United States, there is absolutely no waiver authority in this bill, and that these people will therefore be rendered notwithstanding this bill ineligible for legal permanent residency and citizenship.

We are talking here spouses. We are talking here minor children. We are talking about parents. For the universe, the very narrow universe of people covered by this bill, my amendment would provide the Department of Homeland Security with a discretionary waiver, not the mandatory waiver that was contained in 245(i) where the different grounds for inadmissibility were automatically waived by the bill itself and which passed this House narrowly several years ago, but on a discretionary basis, give the Homeland Security Department the authority to consider whether or not a person whose presence in the United States is not authorized, who is an immediate relative, a spouse, a parent of a minor child of this person who was killed in combat serving in Armed Forces would be eligible to receive their visa and have the petition, which has been filed on their behalf, continued after the combat officer is killed.

I think written in its discretionary fashion, at the very least, we ought to give homeland security for the relatives of these heroes—we ought to give them the Department of Homeland Security the authority to decide in their particular situation that such a waiver is appropriate, and that is what my amendment does on a discretionary basis, very much the same as Mr. King's amendment gives a discretionary basis to decide whether discharge from the military on other than honorable circumstances should be a basis for revoking citizenship.

Discretion in the hands of the executive branch to look at the facts of a particular case, I think, are appropriate in this situation, again, a very narrow universe and far less than many people on this Committee and this House supported in their passage of 245(i).

Chairman SENSENBRENNER. Gentleman yield back. The Chair recognizes himself for 5 minutes in opposition to the amendment. I must strongly oppose this amendment. The process by which this bill was drafted was a remarkable example of Members with very

different viewpoints about almost every conceivable immigration issue coming together in a common cause. This common cause was to honor those lawful permanent residents who have risked and, in some cases, given their lives for the safety of all of us. In doing so, we steered clear of divisive issues that put at risk all we are trying to achieve in this bill.

Unfortunately this amendment raises such a divisive and one that would imperil this bill's chances of being enacted into law. The amendment would explicitly provide benefits for illegal aliens. It would waive for certain relatives of those granted posthumous citizenship universally applicable principle of our immigration law that aliens who have been unlawfully present in the United States for over 6 months are inadmissible for 3 years, and that aliens who have been unlawfully imprisoned in the United States for a year or more are inadmissible for 10 years. We should not turn a bill about the honorable military service of legal permanent residents into a bill about granting benefits to illegal aliens. We should not turn the debate on this bill into a debate that would be similar to the second debate that the House had last year on the 245(i) bill. That debate has had its time and place, but it is not now, and I would urge my colleagues to oppose this amendment and yield back the balance of my time. Gentlewoman from California, Ms. Sánchez.

Ms. SÁNCHEZ. Thank you, Mr. Chairman. I move to strike the last word.

Chairman SENSENBRENNER. The gentlewoman is recognized for 5 minutes.

Ms. SÁNCHEZ. I am delighted that this Committee has taken up the issue of military naturalization. In this country, noncitizens have worn our military uniforms and fought in our battles throughout our history. As I mentioned during our Immigration Subcommittee hearing yesterday, one of my uncles served in the military as a legal permanent resident during the Korean War. In recent years, the percentage of noncitizens serving in our military has been on the rise. The Department of Defense now estimates that approximately 3 percent of our military are legal permanent residents. It seems only fair to recognize and reward these individuals for the sacrifices that they have made. Without being citizens and without having the protections that status would give them, these immigrant men and women are willing to risk their own lives to defend this Nation. The very least we can do is give them something in return.

So while I applaud these Committee's effort to do just that, I also must encourage us to give just a little bit more. The Chairman's bill includes some critical measures. I join with the gentleman from California, Mr. Berman, in making a small amendment to the underlying bill. In the bill, when surviving immediate relative family members are posthumously granted citizens or U.S. Citizens who apply for immigration benefits, the affidavit of support and public charge ground of inadmissibility are waived. Our amendment would add a waiver for persons who have failed to meet certain documentation requirements provided that those persons are in possession of valid documentation.

In addition, the amendment would include a discretionary waiver, not an automatic waiver for three other categories of persons

as already explained by Mr. Berman. This amendment simply recognizes there are people who have made some kind of minor mistake with regard to their immigration admissibility or status, but that we may want to adjust their status or to naturalize. For most of the categories covered by the amendment, the Secretary of Homeland Security, would be given the final decision on whether to waive inadmissibility. And for all of the categories, once a waiver is granted, the immigrant would still need to apply through the regular immigration channels giving our immigration system plenty of opportunity to determine whether this person's application should be approved. There is no danger that this amendment would bypass any of the checks and balances currently in place in immigration law, and in fact, it provides an additional safeguard by making three or four categories discretionary. The same narrow waivers are included in the Senate version of this bill.

Again, I thank the Chairman for his leadership on this important issue and urge the Members of this Committee to accept this amendment. Thank you.

Ms. LOFGREN. Would the gentlelady yield?

Ms. SÁNCHEZ. I will yield to the gentlewoman from California, Ms. Lofgren.

Ms. LOFGREN. In support of the amendment, I think it is important to think through the kinds of situations where this amendment might come into play. One of the traditional and longstanding barriers to legalization is the so-called public charge ground. And basically it is an analysis of whether the applicant is too poor really to support themselves and that is reasonable in the ordinary course of events. But when you take a look at how it would apply when you have got a dead soldier, I think you have to come to a different conclusion. Most of our soldiers are men.

And in American society, most of the bread winners are men. And when the bread winner is killed in defense of the United States, it is likely, or at least quite possible, that the widow is going to be facing tough financial times. In fact, she may be a public charge while she tries to get her life back together again. Further, I think it is worth noting that depending on the size of the family, public charges—soldiers are eligible for food stamps. So even if there wasn't a death this isn't an issue. Further, in terms of the ability of the Homeland Security Department to do a waiver when the person is here without benefit of a valid visa, think through the kind of scenarios that can occur.

I mentioned earlier when discussing Mr. King's amendment, if you overstayed your student visa, a likelier situation would be your husband is off at war. You have a child or two, you have to drop out of school to support yourself and you don't have the infrastructure. When you drop out of school you lose your status and what we would be saying is that—

Chairman SENSENBRENNER. The time of the gentlewoman has expired.

Ms. LOFGREN. Then I would move to strike the last word.

Mr. GALLEGLY. I would move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. HOSTETTLER. I would like to strike the last word. I speak in very strong opposition to this amount. While I am strong supporter

of the spirit of what we are trying to do in the underlying bill, I think that this amendment denigrates the effort that we are trying to bring forth in rewarding someone for serving in this country, and I think the real purpose of this amendment is to circumvent 245(i). And with that, I would yield back the balance of my time.

Chairman SENSENBRENNER. For what purpose does the gentlewoman from Texas, Ms. Jackson Lee, seek recognition?

Ms. JACKSON LEE. Mr. Chairman, I thank you very much.

Chairman SENSENBRENNER. Gentlewoman move to strike the last word?

Ms. JACKSON LEE. I move to strike the last word.

Chairman SENSENBRENNER. The gentlewoman is recognized for 5 minutes.

Ms. JACKSON LEE. One of the issues that my colleagues are raising besides the question of dealing with individuals presently out of status is how large a question this really is. And again, let me refer the Committee to the bill. It is narrowly drafted. The bill deals with individuals who have enlisted in the United States military, who have gone into combat and in particular have died, and we are responding to the needs of their family. This amendment, more narrowly drawn, deals with those posthumous grants of citizenship and the impact on their families. Additionally, it says that the Homeland Security Department may grant a waiver. We are talking about a finite, a small number of individuals. Why are we trying to block the fullness of this legislation, which is to respond to the family members of the deceased? We are not trying to respond to his neighbor, his church, his Boy Scout troop. We are saying the family member, small, definitive. Can you not, in this limited way, and I don't want to speak for the proponents of this legislation, but I imagine they may want to work with you legislatively. This is a very small number of individuals that we are dealing with and it is narrowly drawn.

It is limited, and I would ask my colleagues to consider what we are trying to do is to deal with the now deceased individual who offered his or her life for this country. I believe that is the minimal we can do to make sure his particular family is taken care of. With that I yield to the gentlewoman from California.

Ms. LOFGREN. I would just note that while the numbers will be small and the amendment only provides a discretionary process for the Department of Homeland Security, it is not a mandatory situation, the tragedy that it could prevent is worthy of our consideration. You know, when soldiers are killed in battle, it is a big deal. I mean, it is a big deal to the country and it is also a big deal in the community to honor those who were lost. If the widow has dropped out of school and is out of status, she and their children are going to become known. Their pictures are going to be in the newspaper because of their hero who lost his life. When that happens, that widow and her children are going to be subject to deportation because the widow dropped out of school when the husband went over to fight.

Under the current law, there is no provision to allow for a waiver in that situation, let alone the ability to take advantage of what I think is very decent in this bill, the ability to regularize one status and the posthumous citizenship requirements. When that situation occurs we will all be ashamed that we have not provided for

an opportunity for the widow to be accommodated for her to remain and care for the grave of her lost hero, to maintain her faith in the country he lost his life for. This is a small matter and in terms of numbers, but it is not a small number in terms of the right thing to do. And I would hope that Members would consider this. The bill is very good, but this small oversight can be corrected. And I thank the gentlelady for yielding.

Chairman SENSENBRENNER. The gentlewoman yields back?

Ms. JACKSON LEE. Let me just conclude by saying I don't know why we are trying to stray off the path. We can help a narrow group of individuals for someone who lost their life in the service of this country.

Chairman SENSENBRENNER. The Chair is informed there will be votes on the floor in 10 minutes and would prevail about upon the Members to try to bring this bill up to a vote on favorably reporting it before we all have to go over to the floor. Gentleman from New York.

Mr. NADLER. Thank you, Mr. Chairman. I strongly urge support for this amendment and I yield to the gentleman from California.

Mr. BERMAN. Thank the gentleman for yielding. 10 legal permanent residents were killed in combat so far. I am not sure what the total fatalities are, but it is approximately 150. This is the universe we are limited to. We are talking about giving the Department of Homeland Security the authority, the discretion, not as the Chairman I think mistakenly said, we are not waiving, we are giving the authority to waive the bar on admissibility and on adjustment for unlawful presence in the Department of Homeland Security discretion to a limited group of people for whom petitions have already been filed in almost all these cases.

Petitions are now pending. If the mere assertion of the word "illegal alien" can so chill anybody's sense of appropriate justice and an understanding of the situation in this country at this particular time, then we are going to automatically deny without giving the Department of Homeland Security, not the Department of Liberal Humanitarianism, the Department of Homeland Security, the chance to decide maybe there is a case maybe there is a spouse, a parent or minor child, notwithstanding their unauthorized presence in this country, should be allowed to adjust if, for no other reason, have that person's son, father, spouse died in combat. It is a sad statement, and certainly shows we will have very little capacity in this Congress to deal with the presence of probably 8 to 10 million unauthorized aliens when we can't even provide this modicum of discretion to the Department of Homeland Security for the 150 or so people who may have—some of whom have petitions to bring in relatives. I yield back.

Chairman SENSENBRENNER. Question is on the Berman amendment. Those in favor will say aye. Opposed no. The noes appear to have it. The noes have it. The amendment is not agreed to. Are there further amendments. Gentleman from California.

Mr. BERMAN. I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. BERMAN. Mr. Chairman, I intend to support this bill notwithstanding the failure of this bill to contain my amendment, but I do want to say that I think the adoption of the King amendment

which gratuitously denies a parent admissibility. If they happen not to be on the United States on the date that their son or daughter was killed in combat makes no sense whatsoever. And I simply want to say that a lot of us are going to think about how we want to deal with this in terms of the House floor. And I would urge the gentleman from Iowa to rethink this, the second of his two amendments. And since that person——

Mr. KING OF IOWA. If the gentleman would yield.

Mr. BERMAN.—that parent may have done nothing illegal. They may have been waiting outside the country for their visa to come up.

Mr. KING OF IOWA. If the gentleman would yield.

Mr. BERMAN. Yes.

Mr. KING OF IOWA. Thank you. In the interest of really justice and humanity, it has been pointed out to me that the language in my amendment might inadvertently include someone who was outside the country maybe by virtue—and so there has been a suggestion made to me and I would—if you would indulge me—offer—ask unanimous consent to modify the amendment to include language that would protect that type of an eventuality, and it would read a lawful immigrant described under section—if I could read it here—section that addresses those that are in the country legally under temporary visa holders' H1Bs, vacation, business, student visas, et cetera, and also include parolees and asylees. And I think that might address the gentleman's concern.

Mr. BERMAN. If I may reclaim my time.

Ms. LOFGREN. I would object.

Chairman SENSENBRENNER. The gentleman asked unanimous consent. An objection is heard.

Mr. BERMAN. I would suggest that just because this is a complicated subject that requires some review of the law, I would ask the gentleman seeking unanimous consent to withdraw this amendment, not the first one we adopted, this amendment, for the purposes of at least allowing us to look at this for a possible manager's amendment by the Chairman. So I would ask you to offer a unanimous consent request to withdraw your amendment.

Chairman SENSENBRENNER. The time belongs to the gentleman from California.

Mr. BERMAN. I will be happy to yield to the gentleman from Iowa.

Mr. KING OF IOWA. This amendment was fairly and intensely debated and I would prefer working to improve the language with the manager on the floor rather than remove this language in it entirety, but thank you.

Ms. JACKSON LEE. Would the gentleman yield.

Mr. BERMAN. Yes.

Ms. JACKSON LEE. I want to associate myself with the words of Mr. Berman. Since we have a meeting going on right now that I will have to depart——

Chairman SENSENBRENNER. I think we are on the last amendment.

Ms. JACKSON LEE. I want to say that this does breach, if you will, the spirit of the bipartisan effort that we have made. I hope that Mr. King will see his way clear to withdraw his amendment or work with Chairman Sensenbrenner and others and be glad to

work with you on what you have really done to this legislation with that amendment. And I would cautiously not be supportive of this bill as we move forward with that amendment in it. And I yield back to Mr. Berman.

Ms. LOFGREN. Would the gentleman yield? Could you yield for the purposes of offering my amendment?

Chairman SENSENBRENNER. No.

Mr. BERMAN. I am told I can't. In that case, I will yield back the balance of my time.

Chairman SENSENBRENNER. Are there further amendments?

Ms. LOFGREN. I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 1954 offered by Ms. Lofgren. In section 2 of the bill, insert after subsection B the following and redesignate provisions accordingly. C, naturalization——

Chairman SENSENBRENNER. Without objection the amendment is considered as read. The gentlewoman is recognized for 5 minutes. [The amendment follows:]



H.L.C.

**AMENDMENT TO H.R. 1954**  
**OFFERED BY MS. LOFGREN**

In section 2 of the bill, insert after subsection (b) the following (and redesignate provisions accordingly):

1       (c) NATURALIZATION BENEFITS FOR MEMBERS OF  
 2 SELECTED RESERVE OF READY RESERVE.—

3           (1) IN GENERAL.—Section 329(a) of the Immi-  
 4 gration and Nationality Act (8 U.S.C. 1440(a)) is  
 5 amended by inserting “as a member of the Selected  
 6 Reserve of the Ready Reserve or” after “has served  
 7 honorably”.

8           (2) TECHNICAL AND CONFORMING AMEND-  
 9 MENTS.—

10           (A) SECTION HEADING.—The heading for  
 11 section 329 of the Immigration and Nationality  
 12 Act (8 U.S.C. 1440) is amended to read as fol-  
 13 lows:

14 “NATURALIZATION THROUGH SERVICE IN THE ARMED  
 15 FORCES DURING PERIODS OF MILITARY HOSTILITIES”.

16           (B) TABLE OF CONTENTS.—The table of  
 17 contents for the Immigration and Nationality  
 18 Act is amended by striking the item relating to  
 19 section 329 and inserting the following:

“Sec. 329. Naturalization through service in the Armed Forces during periods of military hostilities.”

Ms. LOFGREN. Mr. Chairman, I believe this amendment makes the bill a stronger one. It would ensure the ability of members of the selective reserves to expedite their naturalization applications during times of hostility just like members of the armed services can under the Chairman's bill. There is little difference between selective reservists and members of the Armed Forces, especially in times of hostility.

So why should we treat them differently now? Like members of the Armed Forces, selective reservists have to be ready to leave family and friends and familiar surroundings at a moment's notice. Like members of the Armed Forces, selective reservists have to risk their lives in combat, fight for their country and, in some cases, die for their country. Currently all members of the Armed Forces are subject to expedited naturalization benefits during times of hostility regardless of whether they are actually engaged in the armed conflict.

The argument is that a member of the armed services can be called to duty at a moment's notice. In other words, an Armed Forces member can be training at a camp in the United States during times of hostility and become immediately eligible for naturalization without having set foot in the theater of war. A member of the selective reserve may be in the United States and similarly subject to the call of active duty at a moment's notice. However, under the bill, they would not also become eligible for expedited naturalization benefits, like members of the Armed Forces training at a U.S. Camp. The reality of being called to duty at a moment's notice just like members of the armed services has become a reality for so many selective reservists in recent hostilities.

Selective reservists called up in Somalia were 343. During Bosnia, over 28,000, Kosovo over 9,000. And selective reservists in Afghanistan and Iraq included 218,284. Moreover a member of the selective reserves makes many sacrifices that those in the armed services may not have to endure. Many usually work a full-time job of their own while balancing training schedules which they must accomplish during their own time. As we know, citizenship comes with various privileges not enjoyed by legal permanent residents.

Without citizenship, selective reservists eager to serve their positions are precluded from senior positions and cannot receive security clearances. You know, the Army and all our armed services has changed over the years. We increasingly rely on our reserves more than we did in the past, and I know I have, and I am sure other Members of the Committee have gone to visit our reserves on weekends and during breaks. And we know that they are actually functioning exactly like the Armed Forces, the actual Army at this point.

I think the bill would be a stronger one if we were to recognize that fact and that is what the amendment does, and I would yield back the balance of my time.

Chairman SENSENBRENNER. The Chair recognizes himself in opposition to the amendment. Immigration law has long provided the unique benefit for permanent residents who are deployed in active duty status during times of military conflict. These permanent residents are granted the immediate ability to seek naturalization as soon as they are so deployed. The required 5-year period as a permanent resident is completely waived and the peacetime require-

ment of first having served 3 years in the military is also waived. The reason we do this is because soldiers who serve in active duty during wartime accept a heightened level of risk to their lives and show a heightened level of commitment to the United States that deserve special recognition.

The higher recognition is called for in peacetime service or for reserve service. That is why we made the collective decision not to completely waive the requirement of prior military service in order for a soldier to naturalize during peacetime. And that is why we should not waive the requirement for soldiers who serve in the reserves but not in active duty during wartime. Remember, a day a reservist is called up to active duty during wartime, he or she can immediately seek naturalization.

But reserve service alone should not confer this benefit. I urge my colleagues to oppose this amendment and yield back the balance of my time. The question is on the amendment offered by the gentlewoman from California Ms. Lofgren. Those in favor will say aye. Opposed no. Noes appear to have it.

Ms. LOFGREN. I would like a recorded vote.

Chairman SENSENBRENNER. Those in favor of the Lofgren amendment will as your names are called, answer aye. Those opposed no and the clerk will call the roll.

The CLERK. Mr. Hyde?

[no response.]

The CLERK. Mr. Coble?

Mr. COBLE. No.

The CLERK. Mr. Coble no.

Mr. Smith?

[no response.]

The CLERK. Mr. Gallegly.

Mr. GALLEGLY. No.

The CLERK. Mr. Gallegly no.

Mr. Goodlatte?

[no response.]

The CLERK. Mr. Chabot?

[no response.]

The CLERK. Mr. Jenkins?

Mr. JENKINS. No.

The CLERK. Mr. Jenkins no.

Mr. Cannon.

Mr. CANNON. No.

The CLERK. Mr. Cannon no.

Mr. Bachus?

Mr. BACHUS.

[no response.]

The CLERK. Mr. Hostettler.

Mr. HOSTETTLER. No.

The CLERK. Mr. Hostettler no.

Mr. Green.

[no response.]

The CLERK. Mr. Keller.

Mr. KELLER. No.

The CLERK. Mr. Keller no.

Ms. Hart?

[no response.]

The CLERK. Mr. Flake?  
 [no response.]  
 The CLERK. Mr. Pence?  
 [no response.]  
 The CLERK. Mr. Forbes.  
 Mr. FORBES. No.  
 The CLERK. Mr. Forbes no.  
 Mr. King.  
 Mr. KING. No.  
 The CLERK. Mr. King no.  
 Mr. Carter.  
 Mr. CARTER. No.  
 The CLERK. Mr. Carter no.  
 Mr. Feeney.  
 Mr. FEENEY. No.  
 The CLERK. Mr. Feeney no.  
 Mrs. Blackburn?  
 Mrs. BLACKBURN. No.  
 The CLERK. Mrs. Blackburn no.  
 Mr. Conyers?  
 [no response.]  
 The CLERK. Mr. Berman.  
 [no response.]  
 The CLERK. Mr. Boucher?  
 [no response.]  
 The CLERK. Mr. Nadler.  
 Mr. NADLER. Aye.  
 The CLERK. Mr. Nadler aye.  
 Mr. Scott?  
 Mr. SCOTT. Aye.  
 The CLERK. Mr. Scott aye.  
 Mr. Watt?  
 Mr. WATT. Aye.  
 The CLERK. Mr. Watt aye.  
 Ms. Lofgren.  
 Ms. LOFGREN. Aye.  
 The CLERK. Ms. Lofgren aye.  
 Ms. Jackson Lee.  
 Ms. JACKSON LEE. Aye.  
 The CLERK. Ms. Jackson Lee aye.  
 Ms. Waters?  
 [no response.]  
 The CLERK. Mr. Meehan.  
 Mr. MEEHAN. Aye.  
 The CLERK. Mr. Meehan aye.  
 Mr. Delahunt?  
 [no response.]  
 The CLERK. Mr. Wexler?  
 [no response.]  
 The CLERK. Ms. Baldwin.  
 Ms. BALDWIN. Aye.  
 The CLERK. Ms. Baldwin aye.  
 Mr. Weiner?  
 [no response.]  
 The CLERK. Mr. Schiff?

Mr. SCHIFF. Aye.

The CLERK. Mr. Schiff aye.

Ms. Sánchez.

Ms. SÁNCHEZ. Aye.

The CLERK. Ms. Sánchez aye.

Mr. Chairman.

Chairman SENSENBRENNER. No. Are there Members who wish to cast or change their vote? Gentleman from Texas, Mr. Smith

Mr. SMITH. Mr. Chairman, I vote no.

The CLERK. Mr. Smith, no

Chairman SENSENBRENNER. Gentleman from Ohio, Mr. Chabot.

Mr. CHABOT. No.

The CLERK. Mr. Chabot no.

Chairman SENSENBRENNER. Gentleman from Alabama, Mr. Bachus.

Mr. BACHUS. No.

The CLERK. Mr. Bachus no.

Chairman SENSENBRENNER. Further Members who wish to cast or change? Gentleman from California, Mr. Berman.

Mr. BERMAN. Aye.

The CLERK. Mr. Berman aye.

Chairman SENSENBRENNER. Gentleman from Arizona, Mr. Flake.

Mr. FLAKE. No.

The CLERK. Mr. Flake no.

Chairman SENSENBRENNER. Further Members who wish to cast or change their vote? If not, the clerk will report.

The CLERK. Mr. Chairman, there are 10 ayes and 16 noes.

Chairman SENSENBRENNER. And the amendment is not agreed to. Are there further amendments? There are no further amendments, the Chair notes the presence of a reporting quorum. The question occurs on the motion to report the bill H.R. 1954 favorably as amended. All in favor will say aye. Opposed no. The ayes appear to have it. The ayes have it and the motion to report favorably is adopted. Without objection, the bill will be reported favorably to the House in the form of a single amendment in the nature of a substitute incorporating the amendments adopted here today.

Without objection, the Chairman is authorized to move to go to conference pursuant to House rules. Without objection, the staff is directed to make any technical and conforming changes and all Members will be given 2 days as provided by the House rules in which to submit additional dissenting, supplemental, or minority views. The Chair thanks the Members for their cooperation during this markup. We have accomplished a lot today due to the cooperation of everybody. The Committee is adjourned.

[Whereupon, at 11:45 a.m., the Committee was adjourned.]



#### MINORITY VIEWS

H.R. 1954, The Armed Forces Naturalization Act of 2003, is a positive step in loosening the rigid restrictions immigration law has imposed on immigrant soldiers and their families. H.R. 1954 would (a) expedite the naturalization process by allowing military members to naturalize after serving 1 year in the military, waive naturalization fees, and allow naturalization interviews and oath ceremonies to take place abroad; (b) waive posthumous citizenship fees; and (c) ensure the ability of lawful permanent resident spouses, parents legally present in the United States, and unmarried children of citizen or posthumous granted citizen soldiers killed as a result of military service to self petition for immigration benefits or continue to pursue already filed petitions as if the U.S. citizen had not died. These substantive changes to immigration law will benefit those defending our nation and will help ensure that many immigrant families of our fallen soldiers are not penalized for their great sacrifice. We are disappointed, however, that the bill passed by the committee is not more generous in addressing the unique needs of immigrant families and, in some cases, makes existing law worse.

More than 37,000 non-citizen soldiers are currently serving on active duty in the U.S. Armed forces and some of the first U.S. casualties in the current war in Iraq were non-citizens.<sup>1</sup> Unfortunately, the rigidity of current immigration laws often prevents individuals like these soldiers who are truly deserving, to be granted citizenship. In particular, a non citizen who is honorably serving in our military must leave his post abroad and return to the United States to file a naturalization application, be interviewed for the application, and to take the oath of citizenship. Consequently, soldiers serving abroad must spend prohibitive amounts of money in order to become citizens of the country they are defending. And yet even more shocking is the scenario in which a citizen or non-citizen soldier is killed while serving in our military; current law would void most pending applications for immigration benefits filed on behalf of the fallen soldier's immediate family.

H.R. 1954 makes many meaningful improvements to existing law. However, we would have preferred that the committee go much further in assisting the immigrant families of our fallen soldiers. One of the unjust consequences of the 1996 immigration laws is that many individuals in the U.S. became ineligible for permanent residence due to a prior unlawful entry or a minor scrape with the law many years prior. The result is that spouses, children, and parents of a soldier killed in combat who have been rendered re-

<sup>1</sup> *Citizenship Now Easier For Foreign-Born Soldiers*, <http://www.dtic.mil/armylink/news/Aug2002/a20020812citizenship2.html>.

See also: Sylvia Moreno, "Immigrant Marine Fights For Citizenship; Application Denied Because of Mistakes," *Washington Post*; April 15, 2003.

movable or ineligible for immigration benefits by the 1996 laws will be precluded from enjoying the benefits of this bill. This means that in some cases we will be deporting the spouses, children and parents of soldiers who have given their lives serving our country. In response, Reps. Howard Berman and Linda Sanchez offered an amendment, defeated by a party line vote, that would have waived certain documentation requirements, and authorized the Department of Homeland Security, on a discretionary basis, to waive categories of inadmissibility for spouses, children, and parents of soldiers killed in service to the military. This proposal would have balanced the goal of honoring the sacrifice these families have made with our duty to national security.

We further believe that this bill does not go far enough in extending immigration benefits to all non-citizens serving the U.S. military, including the Selected Reservists. Current law grants the President authority to designate by Executive order a period of military hostilities that would trigger immediate naturalization eligibility for active duty members of the armed forces.<sup>2</sup> Unlike traditional members of the Armed Forces, Selected Reservists are not eligible for immediate citizenship under this law if they do not serve in combat during times of hostility. Rep. Zoe Lofgren offered an amendment, defeated by voice vote, that would have applied immediate naturalization benefits to Selected Reservists during times of hostility regardless of whether they serve in combat. This amendment would have addressed the fact that the rationale for providing benefits to members of the Armed Forces and members of the Selected Reserves is nearly identical because during times of hostility they both must be ready to leave family, friends, and familiar surroundings at a moment's notice and potentially die for our country.

We take great issue with two amendments added to this legislation by Rep. Steve King. The first amendment will allow for the revocation of citizenship granted through 1 year of military service if the soldier is discharged under less than honorable terms. This bill was drafted with the intent to reward those who have taken a great risk and made great sacrifice for our country. However, but permitting revocation of naturalization for less than honorable discharge would punish service members in a way does not currently exist for soldiers applying for naturalization pursuant to completion of service during a time of peace. We understand Rep. King's desire to make the bill parallel to current law in 329(c) of the INA, but he overlooks that 329(c) applies exclusively to a special case in which members of the Armed Forces are eligible for immediate naturalization during a time of hostility without the requirement of any prior service or commitment to the military. The provision added to H.R. 1954 would bestow conditional citizenship on all immigrants naturalized through a demonstrated commitment to military service and would create a perverse incentive for non-citizens not to join the military. Moreover, this language would allow military authorities to routinely make legal decisions that in effect would deprive a U.S. citizen of his or her citizenship. In some

<sup>2</sup> 8 U.S.C. 1440 (a).

See also: Exec. Order No. 13,269, 67 Fed. Reg. 45287 (July 8, 2002), Designation of period beginning September 11, 2001 as time of hostility.



cases, these decisions would be based on conduct that would be completely lawful in civilian contexts, but is considered a military offense under the Uniform Code of Military Justice.

The second amendment added to the bill by Rep. King will prevent parents of citizen soldiers and the parents of soldiers granted citizenship posthumously from obtaining immigration benefits if they are out of the country at the time that their child is killed in combat. The amendment is drafted in such a broad manner that it would exclude from benefits even parents who have not violated any immigration laws, including parents who are waiting abroad for a pending petition filed by their citizen child to be approved and parents who reside lawfully in the United States, but have left the country temporarily at the time of their child's death. Rather than honoring the sacrifice made by the fallen soldier and his parents, this amendment arbitrarily picks out the category of parents and adds a new requirement that would not have existed had the soldier lived and applied for benefits on behalf of his parents.

We are pleased that this committee has taken up the issue of military naturalization. However, we reiterate that the Armed Forces Naturalization Act of 2003 does not go far enough in assisting the immigrant families of our fallen soldiers. Moreover, amendments added to the bill in the committee would punish non-citizen soldiers and their families, rather than reward them for their service and sacrifice, by creating a conditional class of citizenship and putting additional restrictions on immigrant parents of soldiers. We hope that these issues will be resolved before this legislation goes to the floor so that we may send the proper message to our brave Servicemen and Servicewomen.

JOHN CONYERS, JR.  
HOWARD L. BERMAN.  
ROBERT C. SCOTT.  
MELVIN L. WATT.  
ZOE LOFGREN.  
SHEILA JACKSON LEE.  
MAXINE WATERS.  
WILLIAM D. DELAHUNT.  
ANTHONY D. WEINER.  
LINDA T. SÁNCHEZ.

